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NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 19th November, 1962.

Issue No.	No. and Date	Issued by	Subject
342	S.O. 3487 ESS, dated 16th November, 1962.	Ministry of Steel & Heavy Industry.	Amendment to the S.O. No. 2249-ESS COMM/Iron and Steel-15(1) and 27(1), dated 1st November, 1958.
343	S.O. 3488, dated 16th November, 1962.	Cabinet Secretariat	Amendment in the Government of India (Allocation of Business) Rules, 1961.
344	S.O. 3489, dated 19th November, 1962.	Ministry of Information & Broadcasting.	Approval of films specified therein.
	S.O. 3490, dated 19th November, 1962.	Ditto.	Approval of films specified therein.
345	S.O. 3491, dated 19th November, 1962.	Election Commission, India.	Calling upon the elected members of the Legislative Assembly of the State of Bihar to elect a person to fill the vacancy so caused by reason of the death of Shri Kameshwar Singh.
	S.O. 3492, dated 19th November, 1962.	Ditto.	Appointing the dates for the election for making nominations; for the scrutiny of nominations; for the withdrawal of candidatures; for taking the poll and the date of completion of the election.
	S.O. 3493, dated 19th November, 1962.	Ditto.	Designating the Secretary, Bihar Legislative Assembly, Patna, to be the Returning Officer for the election.

Issue No.	No. and date	Issued by	Subject
	S.O. 3494, dated 19th November, 1962.	Election Commission, India.	Designating the Deputy Secretary, Bihar Legislative Assembly, Patna to be the Assistant Returning Officer for the election.
	S.O. 3495, dated 19th November, 1962.	Ditto.	Fixing the hours from 11 a.m. to 4 p.m. as the hours during which a poll shall, if necessary, be taken for the election.

Copies of the Gazettes Extraordinary mentioned above, will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 6th November 1962

S.O. 3561.—In pursuance of Section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 22nd October, 1962 by the Election Tribunal, Madurai.

IN THE COURT OF THE ELECTION TRIBUNAL, MADURAI

PRESENT

Sri R. Lakshmanan, M.A., B.L., District Judge & Election Tribunal.
Monday, the 22nd day of October, 1962.

ELECTION PETITION No. 66 OF 1962.

BETWEEN:

Muthiah—*Petitioner.*

AND

1. Malaichamy Thevar
2. N. Ponnusamy } *Respondents.*

Petition by the above petitioner praying (1) that the election of the 1st respondent to represent the Periakulam Constituency of the Lok Sabha at the election held on 19th February 1962 be declared void, (2) that the petitioner be declared to have been duly elected to the said Constituency and (3) for costs of these proceedings.

This petition coming on for hearing on 10th, 11th, 12th, 13th, 15th, 17th, 18th, 19th, 20th, 24th, 25th, 26th days of September, and on the 6th, 15th, 16th and 17th days of October 1962, before me, in the presence of Sri S. Narayanaswami Sastrigal, Advocate for the petitioner and of Sri R. Harihara Iyer and Sri B. Sankaranarayana Iyer, Advocates for the 1st respondent, and the 2nd respondent being absent, and the petition having stood over to this day for consideration. The Tribunal delivered the following.

JUDGMENT

For the Periakulam Parliamentary Constituency, the petitioner, Sri Muthiah, standing as an independent candidate, the 1st respondent, Sri Malaichamy Thevar, standing on the Congress ticket, and the 2nd respondent, Sri Ponnusamy, standing as another independent candidate, were rival candidates for election to the Lok Sabha. The 1st respondent, with the Congress-symbol of yoked bullocks, was declared elected, he having secured 1,46,829 votes, as against 1,43,930 votes secured by the petitioner—*vide* paragraph IV of the petition—the difference of votes between the petitioner and the 1st respondent being 2899. The 2nd respondent polled only 12,357 votes; and so, even forfeited his deposit.

2. The present petition has been filed, by the petitioner, Sri Muthiah, praying that the election of the 1st respondent may be declared *void*, and also that he may be declared to have been duly elected, to the Parliament, from the Periakulam Constituency—*vide* para. 21 and the prayer, para. 22 of the petition—on the following grounds, alleged in the petition.

3. The 1st respondent being the Congress-nominee, had the sympathy and assistance of some of the officers of the Government, and was in a position to obtain and procure the assistance of Government officials—(*vide* para. 5). The polling personnel, who were as many as 3,750, did not get their postal ballot papers for the Parliamentary constituency, though the petitioner learns, all of them filled up form No. 12 properly and sent the same to the Returning Officer for the Constituency, *viz.*, the Collector of Madurai. So, the 3,750 votes could not exercise their franchise. A very large number of them had promised to support the petitioner, during the days he canvassed for votes, and, therefore, he expected their votes to be polled in his favour. The petitioner also learns that a large number of ballot appears were supplied to police officers on duty in a lump—*vide* para. VI. Then, in para. VII, it is alleged that votes polled in favour of the petitioner were worngfully rejected by the Returning Officer in many instances. Firstly,—*vide* para. VII(a)—some marks or impressions which were faint, as they were on the dense foliage of the tree symbol, were declared invalid and rejected, while similar faint impressions on the symbol of the Congress *viz.*, yoked bullocks, were counted as valid. (b) Secondly, some illiterate and uninstructed voters would appear to have folded the ballot paper, *cross-wise, instead of length-wise*, so that, when the ink was in excess, there were marks, on the tree-symbol, and a faint smudged mark on the elephant symbol of the 2nd respondent. These votes were declared *invalid*, in spite of the fact that the marks against the tree symbol was quite clear and distinct; and, in some cases they were counted, as valid, for the elephant-symbol, as well. (c) Thirdly, in some cases, when the arc of the full circule of the seal was on the border, the votes in favour of the tree symbol were rejected, even though there were clear-marks against the tree, with a portion on the border. But, similar marks were counted as valid, when found, partly on the border, and partly in the column relating to the yoked bullocks symbol. The petitioner estimates that he lost about 3,500 votes on account of such miscounting—*vide* para. VII(c).

4. Some of the counting officers, taking advantage of the lateness of the hour of counting, bundled up, wrongly, the ballot papers, relating to the tree-symbol, along with the ballot papers relating to the yoked-bullocks-symbol. In fact, one such instance was brought to the notice of the Returning Officer, who rectified it; but, other instances were ignored, and no action was taken—*vide* para. VIII. Again, some invalid marks, on the back of the ballot-papers, were given credit to, for the symbol of yoked bullocks, instead of rejecting those votes, as invalid. Immediately after the declaration of the result of the election, the petitioner presented a request in writing, (as per Ex. A2—words and brackets mine)—to the Collector, requesting for a recount, but the request was refused.

5. On occasions, in several booths, the candidate himself or his polling agent got the ballot paper from the voter, and put them in the box himself, and such wrong practice was adopted, to ensure, that the particular voter voted for the Congress-candidate. In fact, one such instance was noted; by the polling officer, in respect of ballot-paper, No. 345942, as put into the box, by the candidate, himself, and therefore, invalid. These and other irregularities showing discrimination in favour of the 1st respondent, vitiated the election, according to the petitioner, and have affected the result of the election, *materially*, so far as the returned candidate was concerned—*vide* paras. X and XI.

6. Then, the petitioner alleges, that the 2nd respondent was induced to stand, by A. S. Subba Raju of Bodi, a congress man and then, on 20th January 1962, the

1st respondent, taking along with him one O. Ramasamy, Chairman of the Cumbum Municipality, and some other Congress workers, persuaded the 2nd respondent, by a bribe, to continue to stand for the election. This was, with a view to divert about 10,000 votes, as the 2nd respondent secured 12,357 votes at the election. The petitioner submits, that the bribe, offered to the 2nd respondent, was a *"corrupt practice"*, vitiating the election, and adds, that the *non-Congress-party-votes, cast in favour of the 2nd respondent, would have been polled* in favour of the petitioner. So, the result of the election was *materially*, affected—*vide* para. XII.

7. On 19th February 1962, at about 9 A.M., when there was brisk polling at Chillamarathupatti polling booth, one V. M. Rangasamy alias Kambili Goundar, a religious head, in whom the villagers had great faith, and whose blessings or curses are believed to take effect, was exhorting the voters to vote, only for the symbol of yoked bullocks, on pain of dire consequences being visited on them, by "divine displeasure", of their Deity Jakkamma, if they failed to comply with his request. The petitioner's case, in para. 13, is, that the said Rangasamy Goundar did so, with the consent of the 1st respondent, who was a Congress-candidate, and, therefore, there was a corrupt practice within the meaning of S. 123(2) of the Representation of the People Act. Then, in para. XIV, it is alleged, that one Veerakamakshi Chettiar, the chief election-agent of one R. Subbiah, the candidate for the Assembly constituency, was arrested, because he protested against the Kambili Goundar, who was inducing voters to vote for the Congress candidate, whereupon Tirumalaisamy Chettiar, a worker for the 1st respondent, intervened, saying, that Veerakamakshi Chettiar had no business to protest against the actions of Rengasamy alias Kambili Goundar. By the arrest of Veerakamakshi Chettiar, who and Tirumalaisamy Chettiar were, each fined Rs. 5, the voters were scared away; and, so, the result of the election was affected. Then, it is stated, in para. XVI, that voters were bribed, to vote for the Congress-candidate, by payment of moneys, lump-sums being entrusted to certain chief or influential persons, for the purpose of purchasing votes. In para. XVII of the petition, it is averred, that one Muthumani, an elementary school-teacher in Chinnamanur Panchayat union, took leave and worked and canvassed votes for the Congress candidate, *viz.*, the 1st respondent, who happended to be the union Chairman. It is also alleged, that the District Educational Officer gave assistance to the 1st respondent by granting leave to the said Muthumani. It is stated that a car MDU 3636 was placed at the disposal of the said teacher for doing propaganda for the 1st respondent. Then, in para. 18, it is alleged, that voters were fed by the men of the 1st respondent, by giving chits to hotels for supply of meals. This also constituted bribery. In para. 19(a), it is alleged, that voters were taken to polling booths, in cars supplied by the 1st respondent. In para. 19(b), it is stated, that the expenses of feeding a large number of voters, had not been included in the accounts of the 1st respondent. The election expenses of the 2nd respondent were met by the 1st respondent himself. The petitioner, therefore, prays, that the Tribunal may be pleased to declare the election of the 1st respondent as void and also to declare that the petitioner was duly elected.

8. The 2nd respondent remained absent and was set *exparte*.

9. The 1st respondent contests the petition. In para. 3 of his written statement, he denies that Government officers sympathised with, or assisted the 1st respondent. In para. 4, it is averred that it is wrong to say that 3750 persons, who were polling personnel, did not receive ballot-papers. This respondent believes, that only 140 persons, among the persons, employed as polling personnel, would have been entitled to vote, in that manner, in that constituency. The alleged promise by voters, to the petitioner cannot be seriously taken note of. But, this respondent submits, that his reputation, and especially, the reputation of the Party which sponsored him, would have secured him more votes from amongst the polling personnel, than the petitioner—*vide* paragraphs 5 and 6. Para 7 denies, that a number of ballot papers were, ever, supplied to police-officers on duty, as alleged in the petition. In any event, the petitioner could not have secured enough votes, to cover the margin, or difference, of votes between him and the 1st respondent *viz.*, 2899 votes. Para 9 of the statement says, that this respondent is not aware of any ballot papers on which stamp mark was wrongly put on the back, or of such votes being counted as valid, or being 400 in number. Para. 12 alleges, that this respondent or his agent never got any ballot paper from any voter and put it in the box. This respondent is unable to understand the allegation, that a police-officer had to note, as if ballot paper No. 345942, was put into the box, by this respondent. *The respondent emphatically denies, that any such thing, ever happened, which seems to be a cooked-up one.* In para. 15, the

1st respondent denies, that Subbaraju induced the 2nd respondent to stand or that he bribed the 2nd respondent, to continue to stand, as a candidate. Such a thing could not have happened, because, as a Congress-man, Subbaraju could not have set up any other candidate against this respondent. This respondent is not aware of any other person having intervened, to try to make the 2nd respondent withdraw. It is false to say, that this respondent and Sri O. Ramaswamy and some Congress-workers met the 2nd respondent, and made any offer, inducing him not to withdraw, but continue to stand. This respondent had no need, or occasion, to do any such thing, either on 20th January 1962 or any other day—(*vide* para. 16). The further allegation, in the petition, as if votes to the tune of 12,537, secured by the 2nd respondent would have gone, only to the petitioner if 2nd respondent withdrew, is wrong. The 2nd respondent is an influential man in Cumbum, which is his native place. He is also popular, in Pannaikadu and surrounding villages, where Chettiars live in large numbers. The votes were cast, in favour of the 2nd respondent, in view of his popularity and influence *with Chettiars; and they cannot be called non-Congress votes.* In para. 19, the 1st respondent denies, that he asked V. M. Rengasamy alias Kambili Goundar to work for him. He learns, that the said Goundar did not exhort the voters to vote for the yoked bullocks, *on pain of dire consequences being visited upon them, as alleged.* There was no corrupt practice by this respondent, within the meaning of S. 123(2) of the Act. The allegation, in the petition, that the arrest of Veerakamakshi Chettiar scared away voters, is wrong. It is false to say, that the head-constable, and the S.I. of Police, acted in the interests of and with the consent of this respondent. This respondent did not take voters to any polling booths—*vide* para. 21. The car MDU 8792 belongs to one Veeranan Servai of Bodi; and, this respondent was using it, for election work, from 17th January 1962 to 19th February 1962; *but, it did not carry any voter to the polling booth.* MDU 7860 was never used, by the 1st respondent, at any time during the election; nor was MDU 3636 used by him, to take voters to the polling booths—*vide* paragraphs 23 to 25. The allegation of bribing voters is *frivolous.* Para. 28 denies the allegation, in the petition, as if a teacher, by name Muthumani, was granted leave by the District Educational Officer, to work for this 1st respondent. Muthumani, Ponnayya Thevar and Partharaju never worked, for this respondent; nor did they give any money to the voters. This respondent did not give them any money (*vide* para. 29). Equally false is the allegation that Muthumani, or any other person, bribed voters on behalf of the 1st respondent. The said teacher, Muthumani, did not travel, in MDU 3636-car or work for him or did propaganda for him—*vide para.* 32. Nor did any feeding of voters take place, at any rate, at the instance of the 1st respondent—(*vide para.* 33). No chits were issued, by any authorised agent of the 1st respondent to hotel-keepers—*vide* para. 34. This respondent has submitted a correct account of the expenses. No teacher, Muthusami or Muthumani was ever engaged by this respondent to work for him, and so, there is no question of inclusion of any salary or batta paid to him, in the election accounts. In para. 38, it is alleged, that this respondent is not aware of any bundle of votes being *wrongly* bundled up, along with the ballot papers relating to the symbol of yoked bullocks. In any event, when the matter was, admittedly, rectified the result of the election was, certainly, not affected—*vide* paragraphs 38 and 39. The alleged improper rejection of votes, which were, really, valid, in favour of the petitioner, is denied—*vide* paragraphs 40 and 41. The petitioner's statement, that he lost 3500 votes is false and irresponsible—*vide* para. 42. From the beginning of the election campaign, the 1st respondent had instructed his workers, to be very strict, and to see that no corrupt practice was committed, by any of them—*vide* para. 43. If, in spite of this, any corrupt practice should be found to have been committed, by any of his workers, it should have been done, contrary to the orders of this respondent and without his consent—*vide* para. 44. In any event, there are absolutely no grounds, for declaring the petitioner to have been duly elected. The 1st respondent, therefore, prays that this petition should be dismissed with his costs.

10. The following are the issues framed :—

(1) Whether the 1st respondent had obtained the assistance of any and what officers in the service of the Government?

(2) Whether the returning officer failed to supply ballot papers by post as provided by the rules, and if so, to how many?

(3) Whether the Returning Officer transgressed the rules by giving ballot papers in a lump?

(4) Whether such non-compliance with the rules has materially affected the results of the election in so far as the returned candidate is concerned?

(5) Whether any voting papers have been improperly rejected as against the petitioner?

(6) Whether any voting papers have been improperly accepted in favour of the 1st respondent?

(7) Whether the petitioner is entitled to have a recount of the ballot papers?

(8) Whether the 1st respondent infringed the rule regarding secrecy of the ballot as mentioned in para. X of the petition and if so, an the election be set aside on that ground?

(9) Whether the 2nd respondent was offered a bribe to induce him to stand or continue to stand or not to withdraw from the contest?

(10) Whether the corrupt practice referred to in issue 9, if true, has materially affected the results of the election, so far as the contesting candidate is concerned?

(11) Whether V. M. Rengasamy Goundar exercised any undue influence over the voters at Sillamarathupatti?

(12) Whether there was any intimidation of voters at Sillamarathupatti as mentioned in para. XIV of the petition?

(13) Whether any voters were conveyed to the polling booths as stated in para. XV of the petition?

(14) Whether the charges of bribery alleged by the petition or any of them are true?

(15) Whether the 1st respondent had the assistance of any officer in the service of the Government and got Muthumani to work for him as alleged in para. XVII of the petition?

(16) Whether there was feeding of voters on the polling day as alleged in para. XVIII and schedule III of the petition?

(17) Whether the 1st respondent has not submitted a correct return of the election expenses and has committed a corrupt practice under S. 123 (6) of the Representation of the People Act?

(18) Whether the result of the election, so far as the returned candidate is concerned have been materially affected by reason of the irregularities either singly or cumulatively?

(19) Whether the 1st respondent's election is liable to be declared void?

(20) Whether the petitioner is entitled to be declared elected?

(21) Whether the 1st respondent, in any event, had guarded and instructed his workers to see that no corrupt practice is committed, and whether the 1st respondent took all reasonable means of preventing the commission of corrupt practice?

(22) Whether, in any event, if any corrupt practice had been committed, it should have been done contrary to the orders and without the consent of the 1st respondent or his workers?

11. *Issue* 1.—Despite the large volume of evidence adduced for the petitioner, there is no evidence that the 1st respondent secured the assistance and service of any of the officers of the Govrenment. This issue is found against the petitioner.

12. *Issue* 9.—This issue relates to the corrupt practice alleged by the petitioner, who says, that, on 20th January 1962, the 1st respondent, with Congress workers, came and took O. Ramasamy, municipal chairman of Cumbum, to the residence of the 2nd respondent, to induce him not to withdraw his candidature, but to continue to stand, promising him that he would meet his election expenses and also financially help him in his business, afterwards. It has been held, that there is a heavy *onus*, on the petitioner, in an election petition, to prove his case, especially in respect of a corrupt practice, which, if proved, would entail the consequence of the election of the successful candidate being set aside. This case depends upon P.W. 23's evidence and Ex. A3. P.W. 23 (Ponniah) has deposed that on 20th January 1962, when he was with O. Ramaswami, municipal chairman of Cumbum, the 1st respondent came, in a Jeep-car, and took O. Ramaswami to the residence of the 2nd respondent. He has further deposed that

after enquiring and learning that the 2nd respondent had filed his nomination, the 1st respondent asked him not to withdraw his nomination, since he could win, only if the 2nd respondent also stood, as a candidate, to divert at least 10,000 votes, and further, that the 1st respondent promised to meet the 2nd respondent's election expenses and also render financial help for his business. The witness has further stated, that O. Ramaswami recommended the proposal; and, because of the recommendation of the chairman, the 2nd respondent agreed, not to withdraw. This witness is, admittedly, a distant relation of the petitioner —*vide* the second sentence in his cross-examination. So, it is unlikely, that the 1st respondent would have taken him also in the Jeep-car, even if he took the municipal chairman O. Ramaswami, R.W. 4, to the residence of the 2nd respondent, especially when they were going on a mission of bribing the 2nd respondent, to make him continue to stand at the election. Further, the car was, admittedly, only a Jeep. According to the witness, the 1st respondent came with two Congress workers. So, the chances are, that only one more could be conveniently accommodated, in the Jeep and the likelihood of having a fifth person in the Jeep, in addition to the driver, is not great, especially, when the presence of P.W. 23 was not only not necessary, but likely to have been avoided. The evidence of the 1st respondent as R.W. 1, and of O. Ramaswami, as R.W. 4, is, that there was no such occurrence on the night of 20th Janua y 1962, though it is true, that the 1st respondent came, that afternoon, for a Congress-workers' meeting, but left Cumbum even by 5 or 5-30 P.M. It is significant, in this connection, to note two important admissions made by P.W. 23. The first is, that the municipal chairman "O. Ramaswami is a respectable man who would not utter a lie"—see P.W. 23-cross. The second valuable admission, made by him, is, that "the 2nd respondent has not got much influence (Avarukku Jasthi Chelvakku Kidayathu.) Here, I may, usefully, refer to the evidence disclosing that the 2nd respondent stood for election in 1957 also, and then also, he forfeited his deposit. The question is:—whether the 1st respondent would have thought of promising a man like the 2nd respondent, who had not got much influence, and who was bound to be defeated, even according to P.W. 17, who claims to be a relation and a well-wisher of his, to foot the bill for his election expenses, and also to give him financial assistance, for his continuing to stand for the election. It is fairly clear from the evidence that the 12,000 and odd votes, polled by the 2nd respondent, were polled on account of the number of Chettiars, who were members of his community. So, if the 2nd respondent did not stand, these votes would have been divided between the petitioner and the 1st respondent. The mere fact, that the 2nd respondent was able to poll 12,000 and odd votes would not show, that those votes were *non-Congress votes*, which would, necessarily, go to the petitioner, if the 2nd respondent had not continued to stand. So, I am not convinced of the need of the 1st respondent to go and bribe the 2nd respondent,—not for the purpose of asking him to withdraw, leaving the arena, free, for a straight fight between him and the petitioner, but, not to withdraw and to continue to stand, so as to divert over 10,000 votes away from the petitioner, as if all the Chettiar-votes were, necessarily, non-Congress votes! R.W. 4, the municipal chairman of Cumbum, has emphatically denied this incident, spoken to by P.W. 23. Even at the risk of repetition, even P.W. 23 has paid a tribute to R.W. 4 as a respectable man who would not utter a lie. R.W. 4 has emphatically stated that he did not go to meet 2nd respondent to ask him not to withdraw. He has further deposed that in 1962 also the 2nd respondent has forfeited his deposit. In 1957, the 2nd respondent got only 2,000 and odd votes and lost his deposit—*vide* R.W. 4.

13. So far as Ex. A3 is concerned, if true, it would show, that the 2nd respondent wrote to P.W. 17, that he was not in a position to withdraw his candidature, at the election, as the 1st respondent had come and promised to foot his election expenses and render him some help, otherwise also. P.W. 17 is a man of Theni, who was, admittedly, helping the D.M.K. candidate for the Theni Assembly constituency, and the petitioner for the Parliamentary Constituency. He would say, that even on the date of the nomination being filed in Madurai, he dissuaded the 2nd respondent, a poor Chettiar, who cannot afford to stand at the election, not to stand. But, as he did not respond properly, P.W. 17 wrote a post-card to him. *This post-card has not been summoned from the 2nd respondent.* And, in reply to that post-card, the 2nd respondent wrote to him the letter, Ex. A3. P.W. 18 only says, he was present, when P.W. 17 gave Ex. A3 to the petitioner. If Ex. A3 could be relied upon, as a *genuine* letter, and as sent on the date it bears, it will go a long way to prove the petitioner's case, that the 1st respondent persuaded the 2nd respondent to continue to stand for the election. But, admittedly (*vide* P.W. 17), it was *a letter (not an inland-letter), received by post;* but, the *postal envelope has not been produced*, the explanation by P.W. 17 being, that he used to destroy the postal envelopes, then and there, and preserve

only the letters ! Again, a letter, like Ex. A3, not enclosed in a postal envelope, could be got up and *ante-dated*, at any time. It was suggested to P.W. 17, that it was fabricated. And, fabrication implies and includes recent concoction, with a back-date. The 2nd respondent has, now, no stake, having lost in the election; and, it may not be difficult for the petitioner, to get a letter, like Ex. A3, from him, to oblige the petitioner, thanks to the intervention of P.W. 17. When the *onus* of proving a corrupt practice, which would upset the election of the 1st respondent, without any proof of the result of the election being affected,—*vide* section 100(b) of the Act, is *heavily* on the petitioner, it is incumbent upon him, to prove, that Ex. A3 is a true document, beyond all reasonable doubt. P.W. 17, the alleged recipient of the letter, no doubt, says, that the signature in Ex. A3, and even the body of the letter are in the handwriting of the 2nd respondent. But, the contents of the letter *viz.*, that the 1st respondent had promised him (2nd respondent) to meet his election expenses and to render him other help, could, best, be proved, only by the 2nd respondent going into the witness box. The fact, that the 2nd respondent, as the recipient of the bribe, may have to face certain consequences, on account of the provisions of the Act and the rules framed thereunder, would not absolve the petitioner, from adducing the best evidence, to prove the contents of Ex. A3—*viz.*, the evidence of the 2nd respondent himself. Learned counsel for the petitioner stated, that he could not risk examining the 2nd respondent, who, according to him, is a man of the 1st respondent. The question is:—whether any such difficulty of the petitioner would absolve him from proving Ex. A3 to the hilt, so as to entail the electon of the 1st respondent being declared *void*. I carefully considered, whether I could examine the 2nd respondent, as a court-witness. Even Mr. R. Harihara Iyer, learned counsel for the 1st respondent, could not and did not dispute the powers of this Tribunal, to examine any witness whose evidence, the Tribunal considers to be material, as a court-witness—*vide* section 92 of the Act. But, all the same, the question is:—whether it will be proper for this Tribunal to examine a witness, as a court-witness, thereby tendering that witness, who should have been called by and for the petitioner, to be cross-examined by him. The 1st respondent may raise a question of prejudice on account of such a procedure. Therefore, after careful consideration, I have come to the conclusion that it is not part of the duty of this Tribunal, and it may not be within its province, to fill up any lacunae in the evidence for the petitioner, when the 2nd respondent should have been examined as a witness by the petitioner, and, therefore, may not be properly examined as a court-witness, thereby affording an opportunity to the petitioner, to cross-examine a witness, who should have been called by him.

14. Ex. A3 was not mentioned in the election petition, sent to the Election Commissioner; nor did it accompany the election petition. But, this point cannot go against the petitioner, as the evidence need not be set out in a petition; nor should all documents accompany the petition, sent to Delhi to the Election Commission, when the parties know, that the petition will be sent down to a Tribunal constituted under the Act. Mr. R. Harihara Iyer gave the analogy of a mortgage suit, where the mortgage document, sued on, should be filed along with the plaint, and of a pronote-suit, where the pronote, sued on, should be filed along with the plaint. These analogies are misleading and incorrect; for, in these cases, the documents form the very basis of the suits and have to be superseded by a decree, passed in the suit. *In this case, Ex. A3 is only a piece of evidence—though a valuable piece of evidence, for the petitioner.* But, Ex. A3 was filed into court, only on 7th August 1962; and it was not filed into court, earlier. So, I am afraid, Ex. A3 cannot be *safely* accepted as a genuine and dependable document, on the basis of which, this Tribunal could hold, that the 1st respondent bribed the 2nd respondent to continue to stand and not to withdraw from the content.

15. In my above view, on the facts, it is unnecessary to consider the question of law, raised by the learned counsel for the 1st respondent. Section 123 of the Act, which defines a "corrupt practice", shows, in section 123(1)(A)(a) that "any gift offered or promised by a candidate or his agent or by any other person, *with the consent of the candidate or election agent*, or any gratification to any person whomsoever, with the object, directly or indirectly of inducing a person, *to stand or not to stand as, or to withdraw from being a candidate at an election* would be "bribery". The strenuous contention for the 1st respondent, was, that even assuming, without deciding, that the 1st respondent offered a bribe to the 2nd respondent, thereby inducing him not to withdraw, but to continue to stand, it would not come within the mischief of section 123(1)(A)(a). The argument is, that, only when a person is asked, to stand or not to stand as a candidate at an election, or to withdraw from being a candidate at an election, the mischief of the section would come into play. According to the learned

counsel, the expression, 'to stand or not to stand' would apply to the stage of filing a nomination, since there is a *later* reference to withdrawal from candidature. It is urged, that there is no reference to either "to continue to stand", or to "*not* to withdraw from being a candidate". But, Mr. S. Narayanaswami Sastrigal, for the petitioner, has drawn my attention to the scheme of the Act, and sections like sections 31 and 40, and has distinguished between the expression "stand *for* an election" and the expression "stand *at* an election". He has urged, with some force, that mere filing of nomination would not amount to standing at an election, though it may mean standing for an election. For, if a candidate withdraws, on the last date for withdrawal in spite of his filing a nomination paper, he does not stand, at the election, or on the date of the polling of votes. Hence, the argument is, that the word 'stand' could not be given a narrow and restricted meaning, sought to be given to it, by the learned counsel for the 1st respondent. Inducing a person, "*to stand*" would mean, according to Mr. S. Narayanaswami Sastrigal, inducing a person, "*to continue to stand*" by "*not withdrawing*". If so, one fails to understand the need for section 123(1) (A) (a), referring to inducing a candidate, not to stand as a candidate or to withdraw from being a candidate at an election. It may be a lacuna in the Act; but, as the language of the legal provision stands, now, there is force in the argument for the petitioner. But, in the view, on the facts, that Ex. A3 cannot be safely relied upon, when the writer *viz.*, the 2nd respondent has not been examined as a witness for the petitioner and when the evidence of P.W. 23 cannot be accepted, in preference to the evidence of R.W. 4 (who supports R.W. 1), any further discussion of this legal question appears to be merely academic. It has been held that a major corrupt practice must be proved beyond reasonable doubt (see Braj Bhushan *vs.* Raja Anand Brahma Shah reported in A.I.R. 1961 Allahabad p. 356). I would answer the issue against the petitioner and in favour of the 1st respondent.

16. *Issue* 10.—This issue does not arise. For, if, under issue 9, it is held, that the 2nd respondent was bribed and induced to continue to stand at the election, it need not be shown, further, by the petitioner, that the result of the election in favour of the 1st respondent was *materially* affected.

17. *Issue* 11.—This issue relates to the corrupt practice, set out in para XIII of the petition. The witnesses who speak to V. M. Rengasamy Goundar *alias* Kambili Goundar exhorting voters at Chillamarathupatti, standing in front of the booth beyond the prescribed distance from the booth, are P.W. 28 and P.W. 30. According to P.W. 28, this Rengasamy Goundar is the religious Guru, whose words are believed to take effect and come to be true, and he exhorted the voters saying:—

> "Jakkammalukku pothuvaka mattuchinnathukkuthan ottuppodavendum. Illayanal ongal pillaikutti vilangathu. Madu kanrukal chethupokum. Pair palikathu."

(*vide* P.W. 28). P.W. 30, Kamaraj, goes further, and speaks, not only to the exhortation by the said Rengasamy Goundar, R.W. 7, to the voters, that they should vote for the yoked bullock-symbol, lest they should be visited with dire consequences (*i.e.*) they and their cattle would perish, and their crops would fail; but, he even speaks to Rengasamy Goundar influencing Surulı, Raju and others, four days prior to the polling date. If this conduct were true, certainly, it should be held, that R.W. 7 canvassed votes for the Congress candidate, invoking "*divine displeasure*" on the voters, on default to comply with his request to vote, only for the Congress candidate. There was an ingenious attempt, on the part of the learned counsel for the 1st respondent, to say, that asking voters, *in the name of God*, to vote for a particular candidate, would not amount to a "corrupt practice", within the meaning of section 123(2) read with the proviso thereto. In support of this contention, reliance has been placed upon Indian Election Cases by H. S. Doabia, Volume I, at page 267 (Hoshiarpur West Mohammadan Constituency—Afzal Haq *v.* Rana Nasar Ullah Khan). There, it was held by an Election Tribunal in the Punjab, that the use of the expression, "Khuda de waste" (for the sake of God), asking the voters to vote, for a particular candidate, "could not, possibly, be held to convey any sense of divine displeasure." They are lightly used in ordinary speech, there being no intention, in the mind of the speaker, to enlist the aid of God on his side, but merely the mention of the name of God, to add emphasis to his request—*vide* pages 269 (bottom) and 270 (top). The argument was, that even if Rengasamy Goundar—who denies having made any such appeal to the voters—did ask them to vote for the Congress-candidate in the name of Goddess Jekkamma,

it would not show, that he committed any corrupt practice, within the meaning of section 123(2) proviso (a) (ii). I cannot agree. The words attributed by P.W. 28, (if he can be believed), to R.W. 7, are that voters should vote, in the name of Jekkamma, only for the symbol of yoked bullocks, and that, otherwise, their children would not prosper, their cattle and calves would perish and their crops would fail. So, there would be a corrupt practice, within the meaning of section 123(2) and proviso (a)(ii), if the words were actually uttered by R.W. 7. No doubt, R.W. 7 denies that he made any such appeal to the voters, as attributed to him. He even denies that he is a religious guru. He only says that he is the caste-head, though P.Ws. like P.Ws. 20, 28 and 30, who gave evidence to the effect that he is the guru for the section of the Goundars, were not seriously cross-examined on that aspect. There are two points, which make me think, that there must be some measure of truth in this aspect of the case of the petitioner. P.W. 28, Veerakamakshi, Chettiar, the agent of the petitioner, as well as Tirumalaiswamy Chettiar, who worked for the 1st respondent, were both arrested. The evidence discloses that both of them were fined Rs. 5/- each, for affray. The cause of the fight was that P.W. 28 protested against R.W. 7 exhorting the voters to vote for the Congress candidate, on pain of divine displeasure, if they did not do so; and, thereupon Tirumalaiswamy Chettiar, the Congress worker, asked P.W. 28 as to who he was to question R.W. 7. This led to an altercation and affray; and the hard and solid fact, shown by Ex. B10, is, that P.W. 28 and Tirumalaiswamy Chettiar were, both, fined Rs. 5/- each. It is significant, that *Tirumalaiswamy Chettiar is not a witness for the 1st respondent.* So, notwithstanding the fact that R.W. 7 had chosen to deny that he made any such appeal to the voters, I am inclined to believe, that he might have done so. But, then, P.W. 19 has certified that Kambili Goundar *alias* V. M. Rengasamy Goundar (R.W. 7) is a good man, who would go only on the right path or track.

18. And, further, there is a difficulty in the way of the petitioner. The first is:—Rengasamy Goundar was not an election agent or other agent of the 1st respondent. So, unless he had been authorised by the 1st respondent to act as he did, or unless he did so, with the consent of the 1st respondent, any such conduct on the part of R.W. 7, could not affect the election, *unless the result of the election was materially affected thereby.* For, as pointed out for the 1st respondent, under s. 123, while a corrupt practice by a candidate or his agent, automatically, damns the election of the concerned candidate, any such corrupt practice, by a worker for a particular party, who allowed his zeal to outrun his discretion, would affect the election, *only if the result of the election were materially affected*, Ex. A27, page 37, shows, that, in booths Nos. 46, 47 and 48 of Chillamarathupatti, with which we are now concerned under this issue, the 1st respondent got lesser number of votes than the petitioner,—see the following found at page 37 of Ex. A27:—

Booth No.	1st respondent	Petitioner
46	179	593
47	215	459
48	236	364

It is true, that the 1st respondent, as R.W. 1, admitted, that he went to Chillamarathupatti, and even met Rengasamy Goundar, R.W. 7. But, he denies that R.W. 7 used the words attributed to him. He says, if R.W. 7 really used the words ascribed to him, the petitioner might not have secured more votes. At any rate, even if Rengasamy Goundar was known to work for the Congress, *there is nothing to show, that he acted either on the authority of the 1st respondent or with his consent.* It follows, that issue 11 has to be and is found against the petitioner.

19. *Issue* 12.—This issue relates to the alleged scaring away of voters, on account of the arrest of Veerakamakshi Chettiar. But, even on the evidence of the petitioner's witness, it has not been shown that any voters were scared away. In fact, P.W. 19, whatever his deposition, in chief, admitted, in cross-examination, that "the voters were not afraid, on seeing Veerakamakshi arrested. I cannot say, who were the voters, who were affected".

20. *Issue* 13.—There is no evidence to prove the petitioner's case, under this issue. Though three cars are mentioned in the petition, as having been used to convey voters to the polling booths, there is no evidence to show that any voter

was taken, by or for the 1st respondent, to any polling booth in any conveyance, arranged by the 1st respondent. The issue is found against the petitioner.

21. *Issue* 15.—It would appear, that one teacher, Muthumani, was on leave; but beyond the vague and interested evidence of the petitioner and one or two witnesses of his, there is no evidence to show, that Muthumani took leave, not for his private purposes, but for doing propaganda-work for the 1st respondent; and certainly, there is no evidence to show, that he used MDU 3636 (a Taxi—see R.W. 1), to canvass votes for the 1st respondent. I need hardly add, that the allegation in the petition about the District Educational Officer, granting leave to Muthumani to oblige the 1st respondent, is utterly unfounded. This issue also is found against the petitioner.

22. *Issue* 17.—For a parliamentary constituency, a candidate is allowed to spend up to Rs. 25,000/-, unlike a candidate for the Assembly Constituency, who could sptnd only up to Rs. 9,000/-. Even learned counsel for the petitioner had to state that there is no evidence that the election expenses of the 1st respondent ever exceeded Rs. 25,000/-. The issue is found against the petitioner.

23. *Issue* 14.—This issue relates to the alleged bribery of voters, who were alleged by some of the petitioner's witnesses to have been paid Re. 1/- each per vote. P.W. 21, Ganapathi, has deposed as if one Muthusamy Naidu, an ex-driver, paid moneys at Re. 1/- per vote, to Mari Samban and others, on behalf of the Congress candidate. But, Muthusamy Naidu himself, has been examined as R.W. 8; and, he has denied the allegation that he met P.W. 21 or paid any moneys to any voters. On the other hand, he has deposed, that he left Sarithipatti at 6 P.M. on 18th February, 1962 for Periakulam and returned from Periakulam on 19th February, 1962 at 5 A.M. P.W. 31, Periyandi, has deposed that Chairman Ramasami paid voters, to vote for the Congress candidate at Re. 1/- per vote, in Cumbum. He, even, went to the extent of deposing, that he returned Rs. 16/- paid to his father. Protesting against persons taking on the platform that votes should not be purchased, and acting to the contrary. But, he gave evidence, to the effect, as if the municipal chairman Ramasami pooh-poohed him and went to four houses and paid moneys for votes in those four houses, in spite of his protest. But, the chairman, Ramasami, himself, has been examined as R.W. 4. P.W.23, Ponniah Thever, has certified as already indicated in the earlier portion of this judgment, that this witness, R.W. 4, is a respectable man, who would not utter a lie. And, R.W. 4 has denied having made any payments. He has also given a reason as to why P.W. 31 deposes for the petitioner and against the side supported by him. He says, that he is the chairman of a Vallbar Sangam in Cumbum, the moneys of which to the tune of Rs. 300/- were misappropriated by P.W. 31, who was, therefore, removed by him, from service. I feel no difficulty in preferring the evidence of R.W. 4 to the interested and unreliable evidence of P.W. 31. Further, the voters in the four houses are not examined to give the best evidence on the subject; and, after all, as pointed out in reported rulings, the Tribunal or Court can give them indemnity, even if they depose, that they received bribes for voting for a particular candidate. Similar evidence for the petitioner as if moneys were paid to the voters in the sixth and seventh wards in Bodi, has been rebutted by the 1st respondent examining R.W. 5, Muthiah Serval, who deposed, thus:—"It is not true, that, on 18th February, 1962, I paid moneys to the voters in the 6th and 7th wards". This witness owns substantial properties. He has candidly conceded, that, as a Congress-man, he was interested in the 1st respondent's success in the election, and he frankly added, that he went and canvassed votes for the 1st respondent, honestly, in the sixth ward, but that he did not go to the 7th ward, or pay any moneys to any voters in any ward. I believe R.W. 5, in preference to the witness for the petitioner on this subject. Again, some evidence has been adduced for the petitioner that some money was paid in Ramayagoundanpatti to Ponniah Thevar of Narayanathevanpatti and Muthumani, teacher; but, this has been rebutted by R.W. 3, Varadarajulu, who has denied payment of any money, and stated, that P.W. 33's evidence, that he paid moneys in spite of his objection, is totally false. The suborned evidence for the petitioner, on this subject, can, well, be judgtd, from the fact that one Nachimuthu is alleged to have paid Re. 1 per vote at A. Vadipatti—*vide* P.W. 25, Abbas. But, Nachimuthu, himself has been examined, as R.W. 2; and, he has deposed, that, at the time of the elections in 1962, he was on medical leave in Avvampalayam in February 1962, so that he did not work for any candidate. He added:—"I never went to A. Vadipatti at any time in February 1962. It is absurd to say, that I went to A. Vadipatti and paid Re. 1 per vote as alleged. I never went at all as I was on sick leave. I do not know P.W. 25, Abbas. *It is preposterous to say, that I who was on medical leave*

went about paying moneys to voters". I do not think, it is necessary to labour this issue, further, as it could not be seriously pressed, eventually, even by the petitioner's advocate, the voters themselves not having been examined to give the best evidence on the subject, though they could ask for indemnity. I would, therefore, answer this issue against the petitioner.

24. *Issue* 16.—This issue relates to the allegation that two persons, Chellaram Pillai and Paramasivam Pillai issued chits to voters to three hotels of Alagappa Pillai, Ramasamy Pillai and Mariappa Pillai, for the voters taking meals and thereby committed a corrupt practice, by feeding voters to induce them to vote for the 1st respondent. The chits have not been summoned from the concerned hoteliers; nor have the latter been examined, though P.W. 26, Srinivasan, has given evidence to the above effect. It is significant, that there is some evidence, for the 1st respondent, showing that the hotels of the above three persons, Algappa Pillai, Ramasami Pillai and Mariappa Pillai, are not meals-hotels; and, P.W. 27, Kuppusamy himself has deposed, that he did not go for meals, that day, and that he took only water and came away. Further, it is not shown that Chellaram and Paramasivam Pillai were the authorised agents of the 1st respondent, or that they did anything, *with the consent of the 1st respondent*. So, even apart from the best evidence, in the shape of chits for the supply of food to the voters or of the evidence of the hoteliers, or of the voters who were fed, and who could claim indemnity, not being placed before the Tribunal, there is also the hurdle in the way of the petitioner, that any corrupt practice, committed by a worker for the Congress party *unauthorisedly and without reference to the candidate*, could prejudice the election, only if the result of the election was materially affected. But, I wish to make it clear, that I am not at all, well impressed by this evidence of alleged feeding of voters. I would find the issue against the petitioner.

25. *Issue* 2.—This issue relates to the petitioner's plea, that postal ballot papers for polling personnel, though sent for the assembly constituency, were not sent for the Parliamentary Constituency, so that, about 3,750 polling personnel were disabled from extrcising their franchise. There is no evidence or proof that all polling personnel had votes, to be cast, for this constituency. For, as pointed cut for the 1st respondent, some persons in the electoral roll at Sathur or Srivilliputhur in Ramnad District might be employed in the area covered by Periakulam Parliamentary Constituency and they might have had no franchise, here. Let me assume that about 3,000 polling personnel had the right to vote. The petitioner adds, that when he approached the polling personnel during his canvassing for votes, most of them had promised to vote for him. So, it is contended, that if the 3,000 polling personnel had been able to exercise their franchise, the scales would have been tilted, in favour of the petitioner, who would have won, the margin or difference between him and the successful candidate *viz.*, the 1st respondent being only 2,899 votes.

26. In support of this contention that the postal ballot papers for the Parliamentary Constituency were not received, by several polling personnel, the petitioner has examined a number of witnesses, including P.W. 22, Sri K. T. K. Thangamani, Bar-at-law, and ex-M.P. He has also filed Ex. A4-series to falsify Ex. B1, as a got-up list, in the wake of the petitioner's election petition, as some of the names of the applicants in Ex. A4 series do not, at all, find a place in Ex. B1. No doubt, P.W. 35 would "out-Herod Herod", and say, that postal ballot papers were not received, even for the Assembly Constituency. But, it emerges from the evidence of all other witnesses for the petitioner, including P.W. 22, on this subject that there was *no complaint, with regard* to receipt of postal ballot papers by the polling personnel, for the Assembly Constituencies, and *the complaint was only in regard to non-receipt of postal ballot papers for the Parliamentary Constituency* —see Exx. A12 to A15, showing that Sri K. T. K. Thangamani, who was, then, a Member of Parliament, raised this question in the Lok Sabha. Witnesses have, now, sought to prove, that though form No. 12 was, properly, filled in by them, their applications for postal ballot-papers were returned, for no default of theirs, but, really, calling for a further answer with regard to the polling booth to which they were assigned. According to P.W. 22, in most cases, polling personnel were assigned their respective polling booths, only two or three days before the elections. Under the rules, applications for postal ballot papers were to be made at least a week prior to the elections, by 10th or 12th February 1962. Apart from P.W. 22, Mr. K. T. K. Thangamani, most of the witnesses examined on this subject for the petitioner, are teachers, from different schools. P.W. 6 is an Engineering Assistant in Victoria Memorial school, Bodi; and, he has deposed that he filled in application form No. 12 for postal ballot paper, but he did not get the postal ballot paper, or the application form returned. P.W. 7 has proved Ex. A4(e), and told

the Court, that her application form, though not defective, was returned. P.W. 9 has proved Ex. A4(j) and A4(k), the applications by herself, and her husband who was also a teacher, and has deposed, that they made the applications, even on 12th February, 1962; but, they were returned with a slip attached, calling for a particular, which was not required by the columns in form No. 12. P.W. 10 is another school mistress like P.W. 9; and she has proved Ex. A4(g) and A4(c), applications by herself and her husband. She has deposed, that they sent the applications, *even on 10th February, 1962, but no ballot papers for the Parliamentary constituency were received;* but, the applications were returned on 19th February, 1962, the date of the election in Uthamapalayam, so that they saw the returned applications, only on 20th February, 1962, after they returned home. P.W. 11 has proved Ex. A4(1), and stated, that his application was returned. Similarly, P.W. 24, a teacher, proves Ex. A4; P.W. 16 proves Ex. A9, P.W. 12 proves Ex. A4(a), P.W. 13 proves Ex. A4(m), P.W. 14 proves Ex. A4(b). The headmaster P.W. 4 has proved the list Ex. A6, wherein, however, the name of P.W. 6 is not found and the headmaster could not be sure, as to what exactly the scoring in pencil, in Ex. A6-list, means.

27. It is unnecessary to detail them, any further. Having regard to the requirements of the form No. 12, it must be stated, that the returns, calling for the number of booths, which the applicant was assigned, though sought to be justified for the 1st respondent, on the ground, that the Collector had to be satisfied, that the applicant was one of the polling personnel, was not justified; for, the columns require only the Parliamentary Constituency for which the postal ballot paper is applied for, the Assembly Constituency, wherein the applicant is resident, and the other particulars mentioned therein. *There is no column to mention the polling booth.* If the matter stood here, I should have been inclined to hold, that a large number of polling personnel were, in effect, deprived of their right to exercise their franchise. But, then, the learned counsel for the 1st respondent pointed out two pertinent matters. One of them is, that some of the applications were wrongly addressed; while it is common ground, that an application for postal ballot paper for the Assembly Constituency had to be addressed to the concerned Returning Officer, who was the R.D.O. Usilampatti, an application for postal ballot paper for the Parliamentary Constituency had to be addressed to the Collector of Madurai, who was the Returning Officer for the Periakulam Parliamentary Constituency. But, it is pointed out, that Ex.A4(b) was wrongly addressed to Bodi P.O.; Ex.A4(f) was wrongly addressed to R. D. O. Usilampatti, instead of to the Collector, Madurai; Ex.A4(1) was addressed to Periakulam. No doubt, the argument, based on the forms being capable of being purchased, at 10 nP. each, to justify the return, is not wholly convincing, though not devoid of force as the Collector should know that the applicant is one of the *bonafide* polling personnel. When some of the application forms were not addressed to the Collector, Madurai, those applicants cannot be heard to complain, that their applications were returned. But, actually, the applications contained a slip by the Collector's Office, signed by some one on behalf of the Returning Officer, requiring an additional particular to be furnished. So, it cannot be said, that some purchased forms of applications were used, to write up applications with a back-date, to oblige the petitioner; for, in that case, the applicants could not get slips from the Collector's office, as official acts are, generally, presumed to be properly done. The next argument, for the 1st respondent, is, that Exx.B5 to B9 show, that postal votes, exercised by voters, were only 743 in number. *See* the following:—

Ex.B5	Kodaikanal	64 ballot papers
Ex.B6	Andipatti	30 ballot papers
Ex.B7	Theni	219 ballot papers
Ex.B8	Uthamapalayam	219 ballot papers
Ex.B9	Bodi	211 ballot papers

making, in all, only 743 votes. It was urged, that, even if the postal ballot papers were received, by the polling personnel for the Parliamentary Constituency, only 743 might have exercised their votes, as, usually, a voter exercises his franchise, both for the Assembly as well as for the Parliamentary Constituencies. Generally speaking, a voter, who votes for one Constituency, by going to the polling booth, may, also, vote for the other Constituency. But, as pointed out by Mr. S. Narayanaswami Sastrigal for the petitioner, there may be cases, where a voter may not like to vote for any candidate for the Assembly constituency, but may choose to exercise his franchise only for a candidate standing for election to the Parliament. But, such cases cannot be very many. So, judging from Exx.B5 to

B9, it is urged, for the 1st respondent, that, even if the postal ballot papers had been received, by the polling personnel, only 1000 might have exercised their franchise; and so, it is idle to say, that 3000 votes were lost to the petitioner, on account of non-receipt of postal ballot papers for the Parliamentary Constituency, by several of the polling personnel.

28. Many of the witnesses, who have deposed for the petitioner, are teachers. Mr. S. Narayanaswami Sastrigal has also drawn my attention to a statement of Dr. Sushila Nayyar, a Congress M.P., and now, a Health Minister at the Centre, to the effect, that several middle class persons voted against the Congress, not being satisfied with the treatment, by the Congress, of their requirements. This may be quite correct, as regards teachers, to some extent. But, polling personnel included, not merely teachers, but also Government servants, drawn from different Departments. The Congress Government, in Madras, has been very considerate and kind, to the N.G.O.s whose children are given concessions in regard to school-fees, on a certificate by the Heads of the Offices, and who are also given medical facilities, even though the enhanced dearness allowance, granted to them, is hardly commensurate with the high prices of ordinary daily requirments. It cannot be said, therefore, that the N.G.O.s, who also formed part of the polling personnel, would have, necessarily, voted against the Congress candidate, and in favour of the petitioner, who is an independent candidate, backed by D.M.K. Party. Mr. S. Narayanaswami Sastrigal, for the petitioner, has cited and relied upon pages 264 and 265 of volume I of "The Indian Election Petitions", by Hammond, to contend that where a large number of voters had no opportunity to vote, it cannot be regarded as a fair election. *See* the following passages, relied upon, by the learned counsel:—(1) "I, certainly, should not here take advantage of any admission of counsel, upon which to found my judgment; but, I am perfectly certain, as far as my judgment goes, that an election which is conducted in such a way, as, (whether by accident or by design), not to afford to a *very large mass of the electors*, an opportunity of voting, cannot be a true election of members" (*see* page 264). (2) Again, "That being my construction of the section, I cannot say, considering *the very large number of electors* who have been disabled from voting upon the present occasion, that it has been an election, which may fairly be taken to represent the voices of the electors of Hackney" (*see* page 265). If the above passages could be applied to the present case, as the polling personnel, were, at least, 3000 in number, though 1 per cent of the total electorate, and as postal ballot papers, for the Parliamentary Constituency, were not received by them, though they applied for the same, by filling in form No. 12, properly, I must declare the election of the 2nd respondent *void*, the difference of votes secured by the 1st respondent and the petitioner being only 2900. But, apart from the point, already adverted to, *viz.*, Exx.B5 to B9 showing that only 743 votes were cast by postal ballot for the five Assembly-constituencies, *in respect of which there was no complaint*, the chances of all the 3,000 polling personnel casting their votes, for the five Assembly-constituencies making up the Parliamentary Constituency, are *not great*. Further, we are governed by the Representation of the People Act, section 100 of which damns an election, if a successful candidate, like the 1st respondent, got elected, by resort to corrupt practice, *either by himself or by his election agent or his authorised agent*. But, so far as any mistakes, committed by any Government-officers are concerned, there is no doubt, that the return of the applications for the ballot papers was made *bonafide, and not at the instance of the 1st respondent, or to help him*. Now, such a mistake, on the part of the Government officers—it must be noted in passing, that such a complaint was made, only in respect of the Madurai District, and not in respect of the neighbouring Ramanathapuram District—would help the petitioner, only if he goes further, and shows, that the non-receipt of the postal ballot papers, by the polling personnel, affected the result of the election, materially. If authority were necessary, *see* A.I.R. 1954 Supreme Court 513 (Vashist Narain *v.* Dev Chandra) at pages 515 and 516 (corresponding to 10 Election Law Reports page 30) where it was held, that the *onus* of proving, that the result of the election was materially affected, is on the petitioner. *"It is not enough to show, that the result might have been affected; but, he must show, further, that the result was actually affected"*. It was also pointed out, that the petitioner's case must be proved, by affirmative evidence though it may be difficult. That was a case where it was held, that the nomination of a rival candidate was wrongly accepted, and so, the votes, polled in his favour, were "wasted votes". But, all the same, their Lordships ruled, that it cannot be held, that the mere fact, that the "wasted votes" are greater than the margin of votes between the returned candidate and the candidate securing the next highest number of votes, must lead to the necessary inference, that the result of the election has been *materially* affected. That is a matter, which has to be provided, and, the *onus* of proving it, lies upon the petitioner. Should the petitioner fail to adduce satisfactory evidence, to enable

the Court to find in his favour on this point, the inevitable result would be, that the Tribunal would not interfere in his favour, and would allow the election to stand. In this case, judging from Exx.B5 to B9, the chances are, that only 1000 or at the highest, 1500 voters might have exercised their franchise by postal ballot, since only 743 postal votes were cast in respect of the five Assembly constituencies, as shown by the figures emerging from Exx.B5 to B9, already extracted above, *in extenso*. Out of these 1500 voters, there is no guarantee, that, even if all the teachers voted for the petitioner, the other polling personnel, like N.G.O.s, who were likely to be grateful to the Government which is, now, run by the Congress Party, would have cast their votes in favour of the petitioner, instead of in favour of the 1st respondent. Anyway, what the other *voters would have done, and for whom they might have voted, is anybody's guess, in the absence of positive evidence adduced by the petitioner, by examining the several of those voters to say, that they would have voted only for the petitioner.* Learned counsel, for the petitioner, stated, that the secrecy of the ballot prevents evidence of a particular type. I agree, that the secrecy of the ballot prevents a witness from giving evidence, as to, in favour of which candidate, he cast his votes, in the election. But, as pointed out, for the 1st respondent, the secrecy of the ballot may not prevent a witness, from saying, for whom he would have cast his vote, any more than it prevents the interested petitioner from saying, that several of the polling personnel, whom he approached, promised to vote for him. It is significant that the 1st respondent also says, that, during his canvassing before the election, he met several polling personnel, who promised to vote for him. *It is regrettable, that a number of polling personnel did not get postal ballot papers for the Parliamentary Constituency, and were, thereby, deprived, in effect, of their right of franchise.* But, it is not clear, that all the 3000 voters would have voted. On the other hand, only 1000 or 1500 might have voted, judging from the figures already referred to, as emerging from Exx. B5 to B9, with regard to the votes exercised for the five Assembly Constituencies, which, together constitute the Periakulam Parliamentary Constituency. Even P.W.27, the election agent of the petitioner, has admitted that some voters plainly told the petitioner, that they would not vote for him, as they had party-affiliations, and he cannot say to which party, polling personnel had leanings. And, of these, nobody can be sure, as to how many would have voted for the petitioner; even if about 750 would have voted for the petitioner, that is not enough, by itself alone, to enable this Tribunal to hold, that the result of the election was materially affected, in view of the margin of votes between the petitioner and the 1st respondent being nearly 2,000. I would answer the issue, accordingly.

29. *Issues 5 to 7.*—Issue 5 relates to the allegation in the petition and of P.W.1, that votes, cast for the tree-symbol were rejected, wrongly, and, therefore, according to him and according to P.W.27, Kuppusamy, his election agent, 2,000 votes counted on 25th February 1962 and 1,000 votes counted on 26th February 1962 at Uthamapalayam, were wrongly lost to him. Issue 6 relates to the allegation, that some votes were improperly accepted in favour of the 1st respondent, particular reference being made to some marks on the back of the ballot-paper being wrongly given credit to, for the Congress-symbol. Issue 7 relates to the prayer of the petitioner for a re-count of the ballot papers. These three issues are closely linked together. Of course, there is no question of any re-count of votes accepted as valid for the 2nd respondent. Nor is there any need for justification for any re-count of petitioner's votes, as the 1st respondent has not filed any recrimination. The only question is, whether the 1st respondent's votes, or at least, the rejected votes should be recounted?

30. The petitioner says, that some marks on the *foliage* of the tree-symbol, which were *faint* were wrongly rejected, even though his election agent mentioned, that there were marks on the tree-symbol, though faint. It is enough, however, for me, to refer to the evidence of Shri Pangurengan, R.W.10, the then R.D.O. of Usilampatti, and of Shri Bhoopathi, R.W.6, the then P.A. to the Collector of Madurai, to show, that there were and could have been no such improper rejections. In fact, R.W.10, who struck me as the more efficient and knowing R.D.O. out of the two witnesses,——though Mr. S. Narayanaswami Sastrigal, learned counsel for the petitioner, characterised R.W.6 as being "more honest in giving evidence",—gave a very convincing and valid explanation, as to why there was not, and could not have been, any such improper rejection; for, as mentioned by him, *the ink of the foliage of the tree, which was the symbol of the petitioner was dark, but, the ink of the seal, to be affixed by a voter, against the symbol, which he wishes to favour, was purple.* I, therefore, consider it rather unlikely, that the purple-mark, even if it fell on the dark foliage of the tree symbol, instead of in the blank-portion against the tree symbol, could have escaped attention, or got rejected, wrongly, as mentioned by the petitioner.

31. Then, we see from the evidence of R.Ws.6 and 10, the other Asstt. Returning Officer being R.W.13, that marks wrongly made on the back of the ballot paper, could, easily, be distinguished from impressions due to the ink of the mark seeping through, when the Mark was, rightly, made on the front side of the ballot paper, and, therefore, there was no difficulty, whatever, in rejecting cases of marks, erroneously made on the back side of the ballot paper, against a symbol. I am, not, therefore, satisfied, that there was any improper credit, given in favour of the symbol of yoked bullocks, as alleged by the petitioner. That is why, even the petitioner, in his application, I.A.3/62, has discreetly, prayed, only for a recount of the rejected votes, (though one does not know, whether it is the thin end of the wedge, for asking the Tribunal, later on, to order recount of votes polled for the 1st respondent also, if possible). Suffice it, for me, to refer to the following significant evidence of P.W.27 who is none other than the election-agent of the petitioner, in cross-examination:—"The counting clerk put cases, with marks on the back of the ballot papers, behind the bull-symbol, as doubtful cases. They did not count such votes in favour of the Congress, or in favour of anybody".

32. It is stated, that one bundle containing 50 ballot papers, relating to the tree symbol of the petitioner, was wrongly, bundled up, along with the bundles of the votes in favour of the yoked bullocks-symbol. This is admitted by R.W.10, Sri Pandurangan, the then R.D.O. of Usilampatti; but, he claims that he himself discovered the mistake, and it was not brought to his notice by the petitioner or his agent. Now, it is common ground, that the mistake was then and there and immediately, rectified. Yet, in Ex. A2, the petition filed by the petitioner on 27th February 1962, before the then Collector of Madurai, for a recount, in para 2 thereof, the petitioner simply stated, that the Returning Officer at Uthamapalayam was told, that a bundle containing 50 votes relating to the tree symbol had been wrongly kept and counted, along with the bundles containing votes in favour of the yoked bullock symbol. It was not, however, fairly, mentioned, that the defect was rectified, then and there. It is, however, stated, in para 2 of the petition, and in the evidence of P.D.1, that there might have been similar mistakes, elsewhere; and, that is one of the reasons why the petitioner desires a recount. But, it is significant to note, that P.W.27, the election agent of the petitioner, himself, in the course of his cross-examination, on this aspect, candidly confessed, that "there was no such mistake in Uthamapalayam". The wrong mixed-up bundle was returned to the bundles of the tree symbol votes, and counted as votes for the tree symbol. The evidence of R.W. 10, Sri Pandurengan, the then R. D. O. Usilampatti, in answer to a question by the Tribunal, shows, that there were only two cases of votes, relating to the yoked-bullock-symbol and the elephant-symbol, being mixed up together, with the tree-symbol-votes, and that they were rectified, immediately. In fact, R.W.10 stood able and searching cross-examination, very well; and, he showed a complete and thorough acquaintance with the Rules, and impressed me, as an efficient officer, who did the counting correctly and fairly. So far as the other counting tables, at other places, where other officers like R.W.6 and R.W.13 were presiding, as Returning Officers, are concerned both R.W.6 and R.W.13 are emphatic, that there was no such complaint before them. It was elicited, that for 16 counting tables, the petitioner was allowed 8 election agents. Even if the actual number of the ballot papers, in respect of which any objection was raised, could not be noted, the election agents of the petitioner or of any other party, could have noted the number of ballot boxes and the number of the booths to which they related, to be able to give more specific particulars about any alleged miscount by the officers.

33. The next head of attack, against the counting by R.Ws. 6, 10 and 13, was that there were cases of wrong folding of the ballot papers, cross-wise, instead of length-wise, resulting in a real mark or impression on the tree symbol, causing a faint mark or impression on the elephant symbol. P.W.1, and his agents like P.Ws. 2, 3, 8 and 27, were inclined to depose, that such marks were wrongly rejected, as against the petitioner, and, sometimes, even wrong credit was given to the elephant-symbol. Any wrong credit to the elephant symbol, assigned to the 2nd respondent in this case, who secured only 12,000 and odd votes and forfeited his deposit, need not detain this Tribunal, as they would not tilt the scales, in any way, and as the present fight is between the petitioner and the 1st respondent. As for loss of votes to petitioner, any folding the ballot paper cross-wise, instead of lengthwise, can never cause an impression on the symbol of yoked bullocks, which is No. 2 in the ballot paper—vide Ex.A1. But, not merely R.Ws. 10 and 13, but even R.W.6 (who, as I shall presently show bungled, in one or two replies in cross-examination) were definite, that, if the mark was clear on the tree symbol, even if there was a faint impression or mark on the elephant symbol, credit was given, naturally and rightly, to the tree symbol of the petitioner; but, if there were two clear marks on the two symbols, or two faint or

smudged impressions, naturally, such votes were rejected, as cases of double votes. R.W.10 has made it clear, that such cases were only 100 or 200 in all, forming a small percentage of rejected votes. He has deposed:—"If a clear mark and a smudged mark were there, I gave credit to the clear mark, to the symbol against which it was made. If there were two clear marks against the two symbols, I had to reject them, and there were some cases of double marks, entailing rejection. But, if there was a clear mark against a symbol, and even a smudged mark against another symbol, due to wrong cross-wise folding of the ballot paper, I gave credit to the symbol against which the mark was clear". To a similar effect is the evidence of R.W.6, Sri Boopathi:—"There were a few mistakes, of smudged marks, due to wrong folding of the ballot papers cross-wise. In some cases, the mark was clear on the tree-symbol, and there was a faint or smudged mark on the elephant symbol, and those votes were counted for the tree symbol, as valid. But, there were other cases, where the marks on both symbols were faint and smudged, and I rejected them, as I could not be sure for which symbol those votes had been cast". No party can complain against rejection of double-votes or votes, on the border, between two columns or compartments of the ballot-papers, (to be presently referred to) as invalid. See Supreme Court in H. Vishnu Kamath v. Syed Ahmed Ishaque, reported in 1955(1) M.L.J.157 at p. 171, where it was held thus:—"But, when the law prescribes that the intention should be expressed, in a particular manner, it can be taken into account, only if it is so expressed. An intention, not duly expressed, is, in a Court of law, in the same position, as an intention not expressed, at all". Such evidence of R.Ws. 10 and 6 fits in with the instructions issued in the samples of valid and invalid votes, shown by Ex.A38. So far as R.W.13 is concerned, he swears, that, in Andipatti and Theni Constituencies, for which he was the counting officer, he did not come across any case of wrong folding of the ballot papers, cross-wise, instead of length-wise. Hence, it is clear, that the evidence of R.Ws. 6 and 10 must be preferred, not only to the interested evidence of P.W.1 and his election agent, P.W.27 (who was the election agent for the petitioner even in 1957 elections and who deposed for the petitioner in the 1957 election-petition also, which was, admittedly dismissed)—but even in preference to P.Ws. 2 and 3, and even P.W. 3, an Advocate, who functioned as a counting agent for the petitioner. For, while these witnesses are deeply interested in the petitioner, the Returning Officers, like R.Ws. 6 and 10, are, *prima facie*, disinterested, and not shown to have evinced any undue interest in the 1st respondent, as the Congress candidate. For, even at the risk of repetition, not merely R.W.10, but even R.W.6 has deposed, that cases of wrong marking, on the back of the ballot papers, were, summarily, rejected, as invalid votes; and R.W. 6 added, that such cases could be, easily distinguished from cases of correct marking, on the front of the ballot paper, even though the ink might have seeped through, to the back side.

34. The next ground of attack, against the counting as having been unfavourable to the petitioner, is, that cases, where there was a mark against the tree symbol were rejected, as a portion of it was on the border line. With regard to this aspect, I must say, that R.W.6 had betrayed his ignorance of the diameter of the seal being, purposely, made to be equal to or less than the width of the border, between one symbol and another, in the ballot paper, only a rough sample of which was filed as Ex. A1 for the petitioner. For, R.W.10 has definitely told the Court that the seal had a diameter less than the width of the border, so that there was no question of a mark or impression being found in two compartments, against two symbols. So, the evidence of R.W.6, Sri Bhoopathi, showing as if he gave credit to the symbol against which a major portion of the mark may, in a case of the mark against two symbols, is obviously incorrect, as he could have seen only marks partly on a symbol and partly on a border. R.W.10 has deposed:—"In all cases, where the mark was partly on the border and even slightly in the compartment containing the symbol, allowed it as valid vote for that symbol". The evidence of R.W.10 appears to be, certainly, more correct. R.W.10 has also added, that there were only a few such cases of marks on symbols falling also on the border line. Apart from the highly interested evidence of P.W.1 and his agent, P.W.27, who would say as if 3000 votes were lost to the petitioner, on account of wrong rejection of votes for petitioner, which should have been validly counted in his favour, we have the evidence of P.Ws 8, 2 and 3. According to P.W.8, the petitioner lost 120 votes in all; according to P.W.2, the petitioner lost 175 votes; and, according to P.W.3, who is an advocate, and, therefore, a fairly respectable witness, the petitioner lost 250 votes during the count on 25th February 1962, and 50 votes during the count on 26th February 1962 at Uthamapalayam. Even if one could or should accept the evidence of not only P.W.3, but also of P.Ws 2 and 8, at their full face-value, (in spite of their suffering from the infirmity, when they say, as if marks or impressions on the foliage of the tree symbol were wrongly rejected, when the ink of the seal was purple and the ink of the foliage of the tree symbol was dark, and therefore there could be no mistake), these witnesses account, only for 595

votes as having been lost to the petitioner, even on their own showing. Learned counsel for the respondent stated that this mistake in counting of votes, due to the mark or impression falling also on the border line, is a development in the evidence, which was not mentioned in Ex. A2. This argument is incorrect, because, in Ex. A2, para 3, reference was made to a number of doubtful votes "between the tree symbol and the symbol of yoked bullocks". I prefer the evidence of R.W.10 to the mistaken evidence of R.W.6, and hold, that the broad and high probabilities are, that, when the mark or impression was partly on the bull-symbol and partly on the border line, credit was, evidently, given to the 1st respondent's symbol; but, when the mark was partly on the border-line and partly on the tree symbol, however faint, credit was and must have been given, to the tree symbol of the petitioner. So, there could have been no prejudice to the petitioner, though, I am free to admit, that I carefully and deeply considered, whether it is necessary to order a recount, in view of the slightly bungling evidence of R.W.6, who betrayed a surprising ignorance of the very important, hard and solid fact, that the diameter of the seal, supplied to the voters, for affixing their marks on the ballot papers, was less than the width of the border line. But, for reasons shown by me, I have, after a very anxious and careful consideration, come to the conclusion, that no useful purpose would be served by a re-count. But, there is one point which must be considered in favour of the petitioner. In Ex. A28, when the Collector sent figures of counted votes, polled in favour of different candidates and the rejected votes, the number of rejected votes was typed as "7752"; but, the figure was scored, and the figure "7813" was written in ink. R.W.6 who was the P.A. to the Collector, has candidly confessed that he could not explain it. The difference of 61 votes must be, presumably, if not obviously, due to missing votes, about which a complaint was made by the petitioner in para 4 of his application, Ex. A2, wherein he stated, on 27th February 1962, when he moved the Collector for a re-count of votes, that there were votes missing in many polling booths viz., booth Nos. 70, 72, 80, 91 and 100 in Uthamapalayam constituency. So, along with the 750 votes, to which I would give credit in favour of the petitioner, under issue 2, and 595 votes lost to the petitioner, according to P.Ws 2, 3 and 8, even giving their evidence full face value, for the nonce, we reach the figure 1406; but, the difference, in votes, secured by the petitioner and the 1st respondent being 2899, the petitioner must make out a *prima facie* case, that a recount is likely to show 2900 votes more in his favour; in other words, that a recount will disclose 2900 minus 811 (750 plus 61) i.e. 2089 votes. Even according to P.Ws 2, 3 and 8, out of these 2089 votes, only 595 may be made good, though it is doubtful, whether their estimate is not exaggerated. It is thus clear, that there could be no recount of the votes, polled in favour of the 1st respondent, because, I have rejected the evidence for the petitioner, as if any invalid votes, due to marking or impression on the back-side of the ballot paper, were wrongly credited in favour of the 1st respondent. The question is:— whether I should order at least a recount of only the rejected votes, as prayed for in I.A.3/62? It has been held, in III Election Law Reports page 39 (Seshayya v. Koti Reddi), that, in an election petition, "the petitioner is not entitled to a recount and scrutiny, as a matter of right, merely for the asking. He has to make out good grounds, for believing, that there have been mistakes, on the part of the Returning Officer, and that a recount and scrutiny are necessary in the interests of Justice". At the same time, from the very nature of the case, positive proof of miscount at an election cannot be given, before the recount takes place. In that case, the Election Tribunal, then, consisting of a Chairman and two Members, ordered a recount, because the difference between the successful candidate and the next candidate, in that case, was only 97, a very narrow margin. Actually, on a recount, the successful candidate was found to, still, have a majority of 57 votes so that the election petition was dismissed. In XII Election Law Reports 184 (S. S. Motilal v. Damubhai Chhaganlal), it was held, that "A recount of ballot papers is not granted as a matter of right; it can be granted, only if there is evidence, or facts, to show, that the counting was not accurate, and that a recount and scrutiny are necessary, in the interests of justice". It is very significant to note, that, in that case, the difference of votes, between the two candidates, was only four (4), and—eventually, the election petition was dismissed. We have a recent ruling of the Kerala High Court in A.I.R. 1961 Kerala 188 (Kunju Raman v. Krishna Iyer) where a learned Judge of the Kerala High Court upheld the order of the Election Tribunal, which ordered a recount, having regard to the narrow margin of only 23 votes, rendering it desirable to have a recount in the interests of justice. At page 191 of the reported ruling, his Lordship Vaidyalingam J. quoted Halsbury's Laws of England, 3rd edition, volume 14, paragraph 559, page 319, extracting the following passage:—"A petition, which asks for a recount and claims the seat, is a good petition, though it asks for nothing more. The usual practice is, for an application for a recount to be made by summons to a Judge on the rota for the trial

of parliamentary election petitions before the trial on an affidavit showing the grounds on which the application is based. A recount is not granted, as of right, but on evidence of good grounds for believing that there has been a mistake on the part of the returning officer". No doubt, R.W. 6 has, due to a wrong impression, stated, that he gave credit to the symbol against which a major portion of the mark or impression of the seal lay. I have already made it clear, from the evidence of R.W.10 showing, that the diameter of the seal, supplied to the voter, is, purposely, less than the width of the border line between two symbols on the ballot paper, and that when a portion of the mark or impression falls on one symbol, it could fall, if at all, partly, on the border line, and never on another symbol also. So, there is no likelihood of any erroneous counting either against the petitioner or in favour of the 1st respondent on this account. Of course, if there were marks on two symbols, both being equally clear or equally faint, the Returning Officer was entitled to reject the concerned votes, as double-votes, and, therefore, invalid, as already held, on the authority of 1955 (I) M.L.J. 157 at page 171 (Supreme Court). Hammond, in his Treatise on Election Cases (India and Burma, 1920-1935), at page 675, says, that a recount should not be ordered on slender materials or on nebulous allegations of the agents of the petitioner about alleged miscounting. For, "it is well-established law, that a recount will only be granted, in cases which are substantiated by specific instances, and by reliable, *prima facie* evidence". Earlier, in the same page, the learned author refers, to the sole and uncorroborated testimony of the election agent, of the petitioner, in that case, *who "made no note of the votes, and kept no record and did not ask for any note to be made, on the papers,* so that he might, afterwards, identify them". In this case also, the learned counsel for the 1st respondent criticised the evidence, not merely of P.W.1 and P.W.27, but even of P.Ws 2, 3 and 8, that they did not care to make a note, at least, of the number of the booths and the number of the ballot boxes, in respect of votes from which they claimed to have noted miscounting, even if they could not possibly note also the number of the ballot papers, which were often in figures of 5 or 6 digits. It was also pointed out, that, though the petitioner claims to have been present, on 25th February 1962 counting, he did not mention any details, which, are, now, developed in the course of the evidence before this Tribunal, in his petition, as per Ex. A2, to the Collector of Madurai, praying for a recount.

35. In fairness to the petitioner, one more point remains to be noticed; and, that is:— Whether the counting clerk or supervisor, could accept or reject a vote, by himself, when there was an objection raised by a counting agent on behalf of a party? Here, again, R.W.6, who was praised by the petitioner's learned counsel, stated, in answer to a question, as if the counting supervisor could decide that a vote was valid. But, the answer is an obvious and palpable mistake, which need not detain this Tribunal, or impel it to order a recount, which may turn out to be merely a roving or fishing enquiry not likely to yield any tangible or useful result in favour of the petitioner, for the following reasons. Even the petitioner, as P.W.1, has stated, even in his chief-examination, thus:— "Myself was present at the table relating to the Kodai constituency on 25th February 1962 and on 26th February 1962 for Andipatti reserved constituency. Double votes i.e., votes for two symbols, blank votes and other votes, suspected to be invalid, by the Government clerk, would be separately bundled up, and sent to the Returning Officer. The Asst. Returning Officer had to, finally, decide. The Government clerks, themselves, could not and did not reject any votes as invalid". After all, even R.W.6, Bhoopathi, who stated in one sentence as if the counting supervisor had any discretion, has deposed, that "doubtful votes for Assembly constituency and doubtful votes for Parliamentary constituency come to me in different trays". R.W.10's evidence makes matters quite clear. P.W.27, the election agent of the petitioner, has, also, given the following significant evidence:—"I cannot say, if the diameter of the circle of the mark is more or less than the width of the middle line between two symbols. Our counting agents, 8 for 16 tables, were near the counting clerks. The Assistant Returning Officer showed the ballot papers held in his hand and counted as valid or rejected, as invalid, the votes". This fits in with the clear and categorical evidence of R.W.10, the knowing Returning Officer, who has given correct evidence, in my opinion.

36. In the cirucmstances, I would find on issue 5, that, even if some votes were *wrongly* rejected, for the petitioner, they could never number more than 595 plus 61 i.e., 656 votes, even assuming the accuracy of the evidence of P.Ws 2, 3 and 8, and the correction in the figure in Ex. A28 which is unexplained—*vide* R.W. 6—and which shows that, presumably, some votes were missing, as stated by the petitioner in para 4 of Ex. A2. Under issue 7, I find, that no clear *prima facie* case, for a recount, has been made out, by the petitioner, since I consider that no useful purpose would be served, by a recount, even of rejected votes only (the petitioner

not being entitled to any recount of votes in favour of the 1st respondent) as there is not even a remote likelihood of any such recount showing that the petitioner lost 2900 minus 1406 i.e., 1494 votes, wrongly. The issues are answered, accordingly.

37. *Issue* 8.—It emerges from the evidence, even, of R.W. 10, that one ballot paper No. 345942 was rejected by the Presiding Officer, who gave another ballot paper to the voter, on the ground, that the candidate, himself, put the particular ballot paper into the ballot box. It maybe, that, if the box, containing rejected votes, is opened, in the event of a recount, as admitted by R.W.10 and seen, the particular ballot paper would show which candidate put the vote unauthorisedly into the ballot box, as the symbol voted for would betray and expose the concerned candidate. The 1st respondent, as R.W.1, has denied, that he did any such thing. Even assuming that the particular ballot paper was, wrongly, put in by the 1st respondent, who is the Congress candidate, who denies it, when it is not included in one of the corrupt practices, as defined in section 123 of the Act, and when that particular vote was rejected, there is no question of the result of the election being materially affected. So, this issue has to be and is found against the petitioner.

38. *Issue* 18.—Even when discussing issue 2, I have indicated, that I am prepared to concede, that the petitioner would have lost 750 votes, on account of the polling personnel not receiving postal ballot papers for the Parliamentary constituency, on the footing, that the teachers, forming part of the polling personnel, might have voted for the petitioner, as shown by the evidence of some teachers, examined for the petitioner, even if the N.G.O.s, very likely to be grateful to the Government for the benignant measures in their favour, are not, at all, likely to have voted in favour of the petitioner and not in favour of the 1st respondent. I have indicated, under issue 5, that, though there is no reason to think, that there was any serious miscount, even assuming the evidence of P.Ws 2, 3 and 8 to be entitled to its full face-value, the petitioner can be considered to have lost only 595 votes in all; and, then, having regard to the 61 votes representing the difference in the typed figure 7752 and the written figure 7813, in regard to the rejected votes, in Ex. A28, the petitioner could claim, that 61 missing votes were lost to him, and that the benefit of the same should enure in his favour. But, even cumulatively, this would account only for 1406 votes more, in favour of the petitioner. But, this figure is a far cry, from 2900 votes more, which he should get, to succeed, in getting the 1st respondent's election declared void, and himself declared duly elected, as prayed for in his petition. I have already given my reasons, why, I consider, that a recount may not serve any useful purpose, since, in my opinion, a recount is not, at all, likely to make up the margin of 1494 plus 656 votes. The issue is found against the petitioner.

39. *Issues* 21 *and* 22.—These issue were raised, on the pleading of the 1st respondent, in his written statement, that he had instructed and enjoined on his agents, not to commit any corrupt practice or material irregularities. In view of my findings on issues 9, 11 and 12, that the major corrupt practices, attributed to the 1st respondent, have not been proved, these issues do not arise. But, in the event of those corrupt practices, especially that covered by issue 9 being proved, it may be no answer for the 1st respondent, to say, that he took all reasonable precautions of preventing the commission of any corrupt practice, or, that any corrupt practice had been done by some one, contrary to his instructions and without his consent, except in the case of the conduct of R.W.7, covered by issue 11.

40. *Issues* 3 *and* 4.—There is no evidence to prove the allegation, in the petition, that ballot papers were given to some police officers, in a lump, and put in any ballot box. Issue 3 is, hence, found against the petitioner, and issue 4, therefore, does not arise.

41. *Issues* 19 *and* 20.—It follows, from the above, that these issues have to be answered in favour of the 1st respondent, and against the petitioner, respectively.

42. Before parting with this election petition, I must place on record my thanks to the learned counsel on both sides, who cooperated with me, in disposing of this election petition, within six months of its being received in May 1962, as required by the Statute, and by the Election Commission. I must also thank them, for their able and clear analysis of the fairly large volume of evidence on record; and, I must, particularly, express my indebtedness, to the able, eloquent and fair advocacy of Mr. S. Narayanaswami Sastrigal, learned counsel for the petitioner.

43. In the result, this election petition is dismissed with costs of the 1st respondent, holding, that the petitioner has not proved his case, for the 1st respondent's

election being set aside, or declared void, or for himself being declared duly elected. The petitioner will pay the costs of the 1st respondent. Advocate's fees fixed at Rs. 350/-.

Dictated to the Stenographer, transcribed by him, corrected by me, and pronounced by me this 22nd day of October, 1962.

(Sd.) R. LAKSHMANAN,
Election Tribunal, Mudarai.

Petitioners Exhibits

A1	..	Samp'e Ballot paper.
A2	7-2-1962	Application for recounting votes by the petitioner to the Returning Officer, Periakulam Parliamentary Constituency, Madurai
A2 (a)	Do.	Office copy of proceedings of the Returning Officer, Periakulam Parliamentary Constituency, Madurai.
A3	23-1-1962	Letter by S.N. Ponnuswamy to A.K. Venkitachalam Chettiar.
A4	10-2-62	Returning application (form No. 12) of Balasubramani for ballot paper for Periakulam Parliamentary Constituency.
A4 (a)	9-2-62	Do. Do. of V. Ponnalagar for Do.
A4 (b)	12-2-62	Do. Do. of R.P. Subhiah for Do.
A4 (c)	10-2-62	Do. Do. of Violet Thomas, School, mistress, C.S. School, Kokilapuram.
A4 (d)	7-2-62	Do. Do. of S. Subbusamy, Tamil Pandit, Board High School, Periakulam, for Do.
A4 (e)	6-2-62	Do. Do. of R. Kamatchi, Assistant, V.M. Board High School, Periakulam, for Do.
A4 (f)	11-2-62	Do. Do. of S. Rathnasamy, H.M. Harijan Welfare School, Kakkivadampatti for Do.
A4 (g)	10-2-62	Do. Do. of D. Victor Paul, Teacher, C.S.I. School, Kokkilapuram, for do.
A4 (h)	12-2-62	Do. Do. of J. Chelladurai, Teacher, Government Kallar School, Uthamapuram, for do.
A4 (j)	9-2-62	Do. Do. of V. Devakani Ammal, Asstt. Mistress Municipal Senior Basic School, Bodinaickanur, for do.
A4 (k)	12-2-62	Do. Do. of M. Vaira Thevar, Teacher, East Street Kallar School, Bodi, for do.
A4 (l)	10-2-62	Do. Do. of M. Nagammal, Teacher, Sri Kasturiba Higher Elementary School, Kamarajapuram, for do.
A4 (m)	9-2-62	Do. Do. of M. Vellaisamy, Asstt. Government Kallar School, Uppukottai, for do.
A5	12-2-62	Communication from the Collector, Madurai, as Returning Officer for Parliamentary Constituencies returning the application to the applicant calling for certain particulars.
A5 (a)	12-2-62	Do. Do. to the applicant V.C. Krishnaswamy.
A5 (b)	Do.	Do. Do. to the applicant.
A5 (c)	Do.	Do. Do. to the applicant Veerabadra Pillai.
A6	15-2-62	Office copy of letter sent by P.W. 4 to the Returning Officer, requesting immediate despatch of postal ballot papers.
A6 (a)	Do.	Office copy of list of teachers for whom applications, sent, were not returned.
A7	16-2-62	Office copy of communication sent by P.W. 4 to the Returning Officer, Periakulam Parliamentary Constituency.
A8	13-2-62	Returned form No. 12 letter of intimation to Returning Officer to G. Narayanasamy 7/406 Subbarajnagar, Bodi, for Periakulam Parliamentary Constituency.
A9	10-2-62	Do. Do. N. Athimoolam, teacher, Chinnamanoor.
A10	19-2-62	Telegram sent by Subbiah to the D.S. P. Madurai North.
A11	19-2-62	Copy of Ex. A10.
A12	29-3-62	Columns 2410 and 2411 (portions) in the printed publication Lok Sabha Debates (16th Session) question No. 470 by Sri Thangamani (P. W. 22) and answer by the Dy. Minister of Law, regarding non-issue of postal ballots.

A13	15-3-1962	Col. 494, portion marked in do. of do. motion on the address by the President regarding non-despatch of postal ballot papers in some parliamentary constituency such as Madurai Dt. moved by Sri A. K. Gopalan.
A14	15-3-1962	Speech of P.W. 22 in the Lok Sabha—cols. 621 and 622—portions marked re. non-issue of postal ballot papers in the printed book—Lok Sabha debates 16th Session.
A15	16-3-1962	Do. of do. in cols. 700 and 701 marked re. non-issue of postal ballot papers in do.
A16	30-1-1962	Copy of petition sent by Sivakaminathan P.W. 32 to the Collector, Madurai, complaining about one Muthumani, teacher.
A17	..	Office copy of orders of appointment of polling personnel deputed to Bodi Assembly—Periakulam Parliamentary Constituency for general elections of 1962 (one book).
A18	..	Do. of Uthamapalayam Assembly—Periakulam Parliamentary Constituency for do.
A19	..	Statement of polling personnel allotted to No. 111, Kodaikanal Assembly Constituency—Periakulam Parliamentary Constituency for do. do.
A20	..	Statement of polling personnel allotted to No. 111, Kodaikanal Assembly—Periakulam Parliamentary Constituency for do.
A21	..	Do. for Andipatti Constituency (book pages 1 to 26) and Periakulam Parliamentary Constituency.
A22	..	Do. for Theni-Assembly—Periakulam Parliamentary Constituency.
A23	..	Applications in form No. 12 (one book) for which postal Ballot papers were issued for Periakulam Parliamentary Constituency.
A24	..	List showing the name of persons to whom ballot papers were issued by post, for do.
A25	..	Applications made in form No. 12 which have been lodged re. Periakulam Parliamentary Constituency.
A26	17-1-1962	Nomination paper of Malaichamy Thevar for Periakulam Parliamentary Constituency or general elections of 1962.
A26 (a)	..	Do. Do. Do
A26 (b)	Do.	Do. Do. Do.
A26 (c)	Do.	Do. Do. Do.
A26 (d)	19-1-1962	Do. of Muthiah for Do.
A26 (e)	Do.	Do Do. Do.
A26 (f)	Do.	Do. Do Do.
A26 (g)	Do.	Do. Do. Do.
A26 (h)	20-1-1962	Do. of A.S. Khan Mohammed for do.
A26 (j)	Do.	Do. of Ponnusamy for do.
A26 (k)	Do.	Do. Do. Do.
A26 (l)	Do.	Do. Do. Do.
A27	..	Final result sheet in form No. 20 re. Periakulam Parliamentary Constituency—general elections, 1962.
A28	..	Return of election (form No. 21) of do. constituency.
A29	..	List showing issue of postal ballot papers to voters on election duty—Bodi Assembly constituency.
A30	..	List showing issue of postal ballot papers Uthampalayam Assembly Constituency.
A31	..	List showing issue of postal ballot papers in No. 114, Then Assembly and No. 115 Andipatti Assembly Constituencies.
A32	..	List showing do. in Kodaikanal Assembly Constituency.
A33	17-1-1962	Voucher No. 5 for Rs. 35/-.

A34	3-2-1962	Voucher No. 55 for Rs. 1280/- issued by S. Karuppiah Thevar.
A35	23-1-1962	Voucher No. 25 for Rs. 15/- issued by Muniandi Vilax Hotel.
A36	8-2-1962	Notice to candidates and their election agents re. Date, time and place for counting.
A37	21-2-1962	Communication from Sri S. R. Bhupathi, P.A. to the Collector, Returning Officer, Kodaikanal Assembly Constituency to all contesting candidates re. appointment of counting agents.
A38	..	Written instructions (printed) to the counting supervisors and assistantas along with the sample form showing invalid and valid vote during general elections, 1962.
A39	21-2-1962	Intimation sent by Returning Officer, 112, Bodi and 113, Uthamapalayam Assembly constituencies and Asstt. Returning Officer, Periakulam Parliamentary Constituency to Muthiah re. refixation of Number of counting agents.
A40	19-2-1962	Presiding Officer's Diary of Polling station 16-C Uthamapalayam Assembly Constituency in Periakulam 23-113 Parliamentary Constituency.
A41	11-2-1962	Communications from R. K. Varadarajan, Dt. Welfare Officer Madurai and Returning Officer, for Theni and Andipatti Assembly constituencies to all candidates in Theni and Andipatti.

Respondent's Exhibits

B1	..	List showing the number of applications received and disposed of for Periakulam Parliamentary Constituency, re. postal ballot papers.
B2	..	Printed notices re-election campaign.
B3	9-8-1957	Certified copy of deposition of Kamaraj P.W. 30 in this case in Election petition No. 100/57, Election Tribunal, Madurai.
B4	..	Printed circular No. 9 re. conduct of elections General Elections 1962, memorandum dated 2-2-62.
B5	..	Final result sheet in form No. 20 for Kodaikanal Assembly constituency.
B6	..	Do. for 115, Andipatti Assembly constituency.
B7	..	Do. for 114, Theni Do.
B8	..	Do. for 113, Uthamapalayam Do.
B9	..	Do. for 112, Bodinayakanur Do.
B10	7-3-1962	Certified extract of Criminal Registar in the Hony. Special I Class Magistrate's Court, Bodi.
B11	16-9-1962	Communication from Collecter to this Tribunal stating that no special registers are prescribed for issue of postal ballot papers.

Petitioner's witnesses

1. Shri Muthiah (petitioner)
2. Shri Ramadoss.
3. Shri Malaichamy.
4. Shri Subramania Mudaliar.
5. Shri Rengarajan.
6. Shri Krishnachar.
7. Shri Kamatchi.
8. Shri Ulaganathan.
9. Shri Devakani Ammal.
10. Shri Violet Thomas.
11. Shri Nagammal.
12. Shri Ponnalagar.
13. Shri Vellaichamy.
14. Shri Subbiah.
15. Shri Ratnasamy.
16. Shri Athimoolam.
17. Shri Venkatachalam Chettiar.
18. Shri Mayandi Thevar.
19. Shri S. V. Palaniappa.

20. Shri Subbiah.
21. Shri Ganapathi.
22. Shri K. T. K. Thangamani.
23. Shri Ponniah Thevar.
24. Shri Balasubramaniam.
25. Shri Abbas.
26. Shri Srinivasan.
27. Shri Kuppusamy.
28. Shri Veerakamatchi Chettiar.
29. Shri Surullvel.
30. Shri Kamaraj.
31. Shri Parlandl.
32. Shri Sivakaminathan.
33. Shri Ponniah.
34. Shri Raman.
35. Shri Sivaraman.
36. Shri Ganesan.

Respondent's witnesses

1. Shri Malaichamy Thevar (1st respondent).
2. Shri Nachimuthu.
3. Shri Varadarajulu.
4. Shri O. Ramasamy Thevar.
5. Shri Muthiah Servai.
6. Shri S. R. Bhupathi (P.A. to the Collector, Madurai).
7. Shri Rengasamy Goundar
8. Shri Muthusamy Naicker.
9. Shri Paramasivam Pillai.
10. Shri N. C. Pandurengan, R.D.O. Usilampatti.
11. Shri Rayar.
12. Shri Palanichamy Nadar.
13. Sari R. K. Varadarajan (Spl. Dy. Collector for Land Acquisition).

Sd./- R. LAKSHMANAN,
Election Tribunal, Madurai.

(True copy)

Sd./- R. LAKSHMANAN,
Election Tribunal, Madurai.

[No. 82/66/62.]

New Delhi, the 17th November 1962

S.O. 3562.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962, has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said-rule, failed to lodge his account of election expenses within the time required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	
Shri Guru Prasad, XIV/10296, Gali Gyarsi-wali, Manakpura, Delhi-5.	21. Ganganagar.

[No. RJ-P/21/62(19).]

New Delhi, the 22nd November 1962

S.O. 3563.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

SCHEDULE

Name and address of the disqualified candidate	Serial No. and name of constituency	Commission's notification No. and date under which disqualified
1	2	3
Shri Tej Singh, Mohalla Upper-Samkhetar, Mandi Town.	2-Mandi.	No. HP-HP/2/62(1)/66974, dated 24th September, 1962.

[No. HP-HP/2/62(1-R)72056.]

S.O. 3564.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

SCHEDULE

Name and address of the disqualified candidate	Serial No. and name of constituency	Commission's notification No. and date under which disqualified
1	2	3
Shri Ram Karan Singh, M.L.A., Quarter 'C', 10, Jaipur, Rajasthan.	4 Dausa.	RJ-P/4/62(18), dated the 7th August, 1962.

[No. RJ-P/4/62(18-R)/72094.]

By Order,

V. RAGHAVAN, Under Secy.

New Delhi, the 20th November 1962

S.O. 3565.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

SCHEDULE

Name and address of the disqualified candidate	Serial No. and name of constituency	Commission's notification No. and date under which disqualified
1	2	3
Shri Pochiraju Nagabhushana Rao, Thamballagunta Street, Kavali, Andhra Pradesh.	19-Kavali	AP-HP/19/62(4) dated the 31st May, 1962.

[No. AP-HP/19/62(4-R)/71727.]

By Order,

PRAKASH NARAIN, Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 26th November 1962

S.O. 3566.—In exercise of the powers conferred by clause (2) of article 77 of the Constitution, the President hereby makes the following rules further to amend the Authentication (Orders and other Instruments) Rules, 1958, published with the notification of the Government of India in Ministry of Home Affairs, No. S.O. 2297, dated the 3rd November, 1958, namely:—

1. These rules may be called the Authentication (Orders and other Instruments) second Amendment Rules, 1962.

2. In clause (g) of rule 2 of the Authentication (Orders and other Instruments) Rules, 1958, after the words and brackets "the Private Secretary to the Prime Minister (Administration)", the words and brackets "or the Additional Private Secretary to the Prime Minister (Administration)" shall be inserted.

[No. F. 3/9/62-Pub.I.]

FATEH SINGH, Jt. Secy.

New Delhi, the 27th November 1962

S.O. 3567.—In pursuance of clause (1) of article 239 of the Constitution and in supersession of the notifications of the Government of India in the Ministry of Labour and Employment No. PF II/43(77)/57 (S.R.O. 2057) dated the 13th June, 1957, No. PFII/43(77)/57 (S.R.O. 2058) dated the 13th June, 1957, No. PFII/5(13)/58 (S.O. 422) dated the 25th March, 1958, No. PF.II.5(13)/58 (S.O. 1065) dated the 21st April 1960, No. PF.II.11(40)/59 (S.O. 1066) dated the 22nd April 1960, No. 9(9)60-P.F.II (iii) (S.O. 308) dated the 31st January 1961, No. 6(14)61-PF II (S.O. 31) dated the 30th December 1961 and No. 11/13/61-PF.II (S.O. 112) dated the 4th January 1962, the President hereby directs that the Administrators (whether known as the Chief Commissioner, the Lieutenant Governor or the Administrator) of the Union territories of Delhi, Himachal Pradesh, Manipur, Tripura, the Andaman and Nicobar Islands and the Laccadive, Minicoy and Amindivi Islands, shall, subject to the control of the President and within their respective territories, exercise the powers, and discharge the functions, of—

(1) the Central Government under sub-section (4) of section 1 and clause (b) of sub-section (3) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952); and

(2) the appropriate Government under—

(a) the proviso to sub-section (5) of section 1, section 8, sub-section (3) of section 14, section 14B, sub-section (1) of section 17 and the proviso to sub-section (2) of section 17 of the said Act, and

(b) explanation to sub-clause (ii) of clause (f) of paragraph 2 (as substituted by clause 2 of paragraph 80), and explanation to sub-clause (iv) of clause (f) of paragraph 2, of the Employees' Provident Funds Scheme, 1952.

[No. F.2/8/62-Judl.II.]

P. N. KAUL, Dy. Secy.

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 16th November 1962

S.O. 3568.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, and of all other powers enabling

him in this behalf, the President, after consultation with the Comptroller and Auditor General in relation to persons serving in the Indian Audit and Accounts Department, hereby makes the following rules further to amend the Contributory Provident Fund Rules (India), 1962, namely:—

These rules may be called the Contributory Provident Fund (India) Fifth Amendment Rules, 1962.

2. In the Contributory Provident Fund Rules (India), 1962,—

(i) to sub-rule (2) of rule 10, the following proviso shall be added, namely:—

"Provided that in the case of subscribers on deputation to a body corporate owned or controlled by Government, the subscriptions shall be recovered and forwarded to the Accounts Officer by such body".

(ii) to sub-rule (3) of rule 12 after the existing proviso, the following further proviso shall be added, namely:—

"Provided further that in the case of an amount forwarded in accordance with the proviso to sub-rule (2) of rule 10, the date of deposit shall be deemed to be the first day of the month if it is received by the Accounts Officer before the fifteenth day of that month".

[No. F. 8(25)-EV(B)/62/CPF.]

V. K. SUBRAMANIAN, Under Secy.

(Department of Expenditure)

New Delhi, the 16th November 1962

S.O. 3569.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 145 of the Constitution, and of all other powers enabling him in this behalf, the President, after consultation with the Comptroller and Auditor General in respect of persons employed in the Indian Audit and Accounts Department, hereby makes the following rules further to amend the Contributory Provident Fund Rules (India), 1962, namely:—

1. These rules may be called the Contributory Provident Fund (India) Fourth Amendment Rules, 1962.

2. In rule 36 of the Contributory Provident Fund Rules (India), 1962, the existing Note shall be numbered as Note 1, and after that Note, the following shall be added as Note 2, namely:—

"Note 2.—The powers of the President under this rule may, in respect of the amount referred to in clause (c), also be exercised by the authority competent to sanction an advance for the grant of which special reasons are required under sub-rule (2) of rule 13."

[No. F. 11(21)-EV(B)/62.]

New Delhi, the 23rd November 1962

S.O. 3570.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Central Cost Accounts Pool (Recruitment and Conditions of Service) Rules*, 1961, published with the notification of the Government of India in the Ministry of Finance No. 3G(13)-E.I(A)/58, dated the 9th August, 1961, namely:

1. These rules may be called the Central Cost Accounts Pool (Recruitment and Conditions of Service) Second Amendment Rules, 1962.

*These rules were last amended vide S.O No. 2678, dated the 8th August, 1962 published in the Gazette of India, dated the 1st September, 1962.

2. In the Central Cost Accounts Pool (Recruitment and Conditions of Service) Rules, 1961, to rule 3, the following proviso shall be added, namely:—

"Provided that the Government in the Ministry of Finance, Department of Expenditure, may, by order, include in the Pool any posts, whether permanent or temporary, corresponding to the grades, scales of pay and classifications mentioned in Schedule I, in any other Ministry, Department, or Office of the Government."

[No. F. 2(15)-E.I(A)/62.]

K. P. SIRCAR, Dy. Secy.

(Department of Economic Affairs)

New Delhi, the 24th November 1962

S.O. 3571—Statement of the Affairs of the Reserve Bank of India, as on the 16th November, 1962.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	13,85,23,000
		Rupee Coin	1,82,000
Reserve Fund	80,00,00,000	Small Coin	3,02,000
		National Agricultural Credit (Long Term Operations) Fund	
National Agricultural Credit (Long Term Operations) Fund	61,00,00,000		
		(*a*) Loans and Advances to:—	
		(*i*) State Governments	23,98,79,000
National Agricultural Credit (Stabilisation) Fund	7,00,00,000	(*ii*) State Co-operative Banks	11,60,52,000
		(*iii*) Central Land Mortgage Banks	..
		(*b*) Investment in Central Land Mortgage Bank Debentures	2,84,88,000
Deposits:—			
		National Agricultural Credit (Stabilisation) Fund	
(*a*) Government		Loans and Advances to State Co-operative Banks	..
(*i*) Central Government	60,76,84,000	Bills purchased and Discounted:—	
(*ii*) State Governments	7,05,87,000	(*a*) Internal	..
		(*b*) External	..
(*b*) Banks		(*c*) Government Treasury Bills	106,05,59,000
		Balances Held Abroad*	5,13,83,000
(*i*) Scheduled Banks	91,05,18,000		
(*ii*) State Co-operative Banks	1,80,52,000	Loans and Advances to Governments**	19,79,50,000
		Loans and Advances to:—	
(*iii*) Other Banks	3,19,000	(*i*) Scheduled Banks†	2,48,00,000
		(*ii*) State Co-operative Banks‡	133,11,25,000
(*c*) Others	162,35,72,000	(*iii*) Others	1,77,32,000
Bills Payable	31,84,39,000	Investments	194,12,15,000
Other Liabilities	39,33,34,000	Other Assets	32,43,15,000
Rupees	547,25,05,000	Rupees	547,25,05,000

*Includes Cash and Short-term Securities.

**Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 41,00,000 advanced to scheduled banks against usance bills under section 17(4)(c) of the Reserve Bank of India Act.

‡Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 21st day of November, 1962.

An Account pursuant to the Reserve Bank of India Act 1934, for the week ended the 16th day of November, 1962.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	13,85,23,000		Gold Coin and Bullion :—		
Notes in circulation	2077,25,56,000		(*a*) Held in India	117,76,10,000	
			(*b*) Held outside India	..	
Total Notes issued		2091,10,79,000			
			Foreign Securities	88,08,43,000	
			TOTAL		205,84,53,000
			Rupee Coin		121,97,16,000
			Government of India Rupee Securities		1763,29,10,000
			Internal Bills of Exchange and other commercial paper		..
TOTAL LIABILITIES		2091,10,79,000	TOTAL ASSETS		2091,10,79,000

Dated the 21st day of November, 1962.

M. V. RANGACHARI,
Deputy Governor.

[No. F. 3(2)-BC/62.]

A BAKSI, Jt. Secy.

CORRIGENDUM

In the Statement of the Affairs of the Reserve Bank of India, Banking Department as on 29th June 1962 appearing at page 2397 Part II—Section 3(ii) of the Gazette of India, dated 14th July 1962, as S.O. 2130, the second foot-note reading "**Includes Temporary Overdrafts to State Governments" with two asterisks against item "Loans and advances to Governments" may be deemed as omitted.

(Department of Economic Affairs)

New Delhi, the 26th November 1962

S.O. 3572.—In exercise of the powers conferred by Section 10 of the Capital Issues (Control) Act, 1947 (29 of 1947), the Central Government hereby rescinds the notification of the Government of India in the late Finance Department No. PFG-57-Est. I/47, dated the 23rd/28th December, 1949, relating to the delegation of powers to the Assistant Controller of Capital Issues.

[No. F. 12(20)-Admn/62-III.]

R. A. NAIK, Dy. Secy.

(Department of Revenue)

INCOME TAX

New Delhi, the 22nd November 1962

S.O. 3573.—It is hereby notified for general information that the institution mentioned below has been approved by the Council of Scientific and Industrial Research, the "prescribed authority", for the purposes of clause (iii) of sub-section (1) of section 35 of the Income-tax Act, 1961 (43 of 1961).

INSTITUTION

Indian Institute of Management, Ahmedabad.

[No. 79/F. No. 10/62-IT(AI).]

New Delhi, the 23rd November, 1962.

S.O. 3574.—In pursuance of sub-clause (ii) of clause (15) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies the following certificates for the purposes of that sub-clause, namely:

(i) 10-Year Defence Deposit Certificates.

(ii) 12-Year National Defence Certificates.

[No. 80/F. No. 8/11/62-IT(AI).]

G. R. DESAI, Dy. Secy.

(Department of Revenue)

CUSTOMS

New Delhi, the 1st December 1962

S.O. 3575.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby makes the following amendment in the Notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 124, dated the 15th September, 1962, namely:—

In the said notification, the words "and is accompanied by certificate of Agmark Grading from the Agricultural Marketing Adviser to the Government of India or any person specially empowered in this behalf" shall be omitted.

[No. 178.]

S. VENKATESAN, Dy. Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 23rd November, 1962

S.O. 3576.—In exercise of the powers conferred by sub-section (1) of section 122 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Revenue hereby makes the following further amendments in the Schedule appended to its notification S.O.-660 No. 35-Income-tax dated the 22nd April, 1958:—

In the Schedule under the sub-head "I—Andhra Pradesh" for the existing entries against 'B' Range, Hyderabad, in col. 2, the following entries shall be substituted, namely:—

'B' Range, Hyderabad.	1. B-Ward, Hyderabad. 2. Income-tax cum Wealth Tax Circle No. II, Hyderabad. 3. Special Investigation Circle, Hyderabad. 4. Special Survey Circle, Hyderabad. 5. Salary Circle, Hyderabad. 6. Adoni. 7. Kurnool. 8. Nizamabad. 9. Khammamoth. 10. Warrangal. 11. Mahaboobnagar. 12. Companies Circle, Hyderabad.

Explanatory Note

The amendments have become necessary on account of the creation of an Income-tax Circle in the Commissioner's charge.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 81 (F. No. 50/1/62-IT)].

J. RAMA IYER, Under Secy.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 20th November 1962

S.O. 3577.—In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order to amend the Textile Machinery (Production and Distribution) Control Order, 1962, namely:—

1. This Order may be called the Textile Machinery (Production and Distribution) Control (Amendment) Order, 1962.

2. In Clause 3 of the Textile Machinery (Production and Distribution) Control Order, 1962, for the words "within fifteen days from the date on which this Order comes into force", the words "within forty-five days from the date on which this Order comes into force" shall be substituted and shall be deemed always to have been substituted.

[No. 22/34/Tex(B)/61.]

T. S. KUNCHITHAPATHAM, Dy. Secy.

CORRIGENDUM

New Delhi, the 22nd November 1962

S.O. 3578.—In the Ministry of Commerce and Industry Order No. S.O. 3294, dated the 26th October, 1962 (as amended from time to time) published in Part

II Section—3 Sub-section (ii) of the Gazette of India, dated the 3rd November, 1962:

FOR "28. Dr. K. T. Acharya," Asstt. Director, Regional Research Laboratory, Hyderabad.

READ "28. Dr. K. T. Achaya," Asst. Director, Regional Research Laboratory, Hyderabad.

[No. 1(7)L.Pr/62.]

S. P. KRISHNAMURTHY, Under Secy.

RUBBER CONTROL

New Delhi, the 27th November 1962

S.O. 3579.—In exercise of the powers conferred by clause (b) of sub-section (3) of section 4 of the Rubber Act, 1947 (24 of 1947), read with sub-rule (2) of rule 3 of the Rubber Rules, 1955, the Central Government hereby notifies that Shri T. Jayadev, Chief Conservator of Forests, Government of Madras, Madras, having been nominated by that Government in place of Shri C. A. R. Bhadran as a member of the Rubber Board, is hereby appointed with effect from 27th November, 1962, upto the 5th November, 1964, as a member of that Board to represent the said Government and directs that the following amendment shall be made in the Notification of the Government of India in the Ministry of Commerce and Industry, No. S.O. 2696, dated 6th November, 1961, namely:—

In the said notification for item 1 and the entries relating thereto, the following item and entries shall be substituted, namely:—

"1. Shri T. Jayadev, Chief Conservator of Forests, Government of Madras, Madras.
Nominated by the Government of Madras to represent that Government."

[No. F. 15(2)Plant(B)/61.]

B. KRISHNAMURTHY, Under Secy.

ORDER

EXPORT TRADE CONTROL

New Delhi, the 24th November 1962

S.O. 3580.—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), as in force in India and as applied to the State of Pondicherry, the Central Government hereby makes the following further amendment in the Exports (Control) Order, 1962, namely:—

In Part A of Schedule I to the said Order after item 10 the following item shall be added—

"11. Guar Gum having protein content exceeding 9 per cent".

[No. 2A/EXPORT(4)/62.]

A. B. GOKHALE, Under Secy.

(Department of Company Law Administration)

New Delhi, the 22nd November 1962

S.O. 3581.—Whereas the Commission of Inquiry appointed by the Order of the Government of India in the Ministry of Finance, Department of Economic Affairs, No. S.R.O. 2993, dated the 11th December, 1956, has submitted its report to the Central Government on the 31st October, 1962;

And whereas, the Central Government is of the opinion that continued existence of the said Commission of Inquiry is unnecessary after the said date;

Now, therefore, in exercise of the powers conferred by section 7 of the Commission of Inquiry Act, 1952 (60 of 1952), the Central Government hereby declares that the said Commission of Inquiry has ceased to exist from the 1st November, 1962.

[No. F. 9(2)-Admn.II/62.]

D. L. MAZUMDAR, Secy.

Office of the Dy. Chief Controller of Imports & Exports

(Central Licensing Area)

ORDER

New Delhi, the 2nd November, 1962.

S.O. 3582.—Whereas Messrs Bhartiya Sangeet Vadya Kala Niketan, Rajamandi, Agra, have not furnished any cause against Notice No. Genl/184/AM-63/Pol/CLA/330, dated the 21st September, 1962, proposing to cancel the Import Licence No. A 664960/61/AU-NS/CCI/D., dated 15th March, 1962, valued at Rs. 1,000, for import of Urea Formaldehyde Powder from General Area, granted to Messrs Bhartiya Sangeet Vadya Kala Niketan, Rajamandi, Agra, by the Deputy Chief Controller of Imports and Exports, Central Licensing Area, Janpath Barracks 'B', New Delhi, Government of India in the Ministry of Commerce and Indust y, in exercise of the powers conferred by clause 9 of the Imports (Control) Order 1955, hereby cancel the said licence No. A 664960/61/AU-NS/CCI/D, dated 15th March, 1962, issued to the said Messrs Bhartiya Sangeet Vadya Kala Niketan, Agra.

[No. Genl./184/AM-63/Pol/CLA.]

(Office of the Dy. Chief Controller of Imports and Exports)

(Central Licensing Area)

NOTICES

New Delhi, the 12th November 1962

S.O. 3583.—It is hereby notified, that in exercise of the powers conferred by Clause-9 of the Imports (Control) Order, 1955, the Government of India, in the Ministry of Commerce and Industry propose to cancel the Import Licence No. A665899/61 dated 21st February 1962 valued at Rs. 93,800/- for import of M.V. Parts from G.A. except Union of South Africa and South West Africa, granted by the Deputy Chief Controller of Imports & Exports, (Central Licensing Area), New Delhi to M/s. Anand Finance (P) Ltd., 2nd Floor, 9-E, Connaught Place, New Delhi, unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports & Exports (Central Licensing Area), New Delhi within ten days of the date of issue of this notice by the said M/s. Anand Finance (P) Ltd., 2nd Floor, 9-E, Connaught Place, New Delhi, or any Bank, or any other party, who may be interested in it.

2. The grounds of the proposed cancellation of the licence in question are that M/s. Anand Finance (P) Ltd., the aforesaid, were not eligible to the licence in terms of provisions contained in para. 3 of Appendix 26 of the relevant Import Trade Control Policy Book and that the licence has been granted through inadvertence due to misrepresentation of facts by the aforesaid firm.

3. In view of what is stated above, M/s. Anand Finance (P) Ltd., 2nd Floor, 9-E, Connaught Place, New Delhi or any Bank or any other party, who may be interested in the said licence No. A665899/61 dated 21st February 1962 are hereby directed not to enter into any commitments against the said licence and return the same immediately to the Deputy Chief Controller of Imports and Exports, (Central Licensing Area), Janpath Barracks 'B', New Delhi-1.

[No. DCCI.I(CLA)/195/62.]

S.O. 3584.—It is hereby notified that in exercise of the powers conferred by Clause-9 of the Imports (Control) Order, 1955, the Government of India, in the Ministry of Commerce and Industry propose to cancel the Import Licence No. A665914/61 dated 3rd March 1962 valued at Rs. 1,42,800/- for import of M.V.

Parts from G.A. except Union of South Africa and South West Africa granted by the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi to M/s. The Roadways and General Finance (P) Ltd., 4/2-B, 1st Floor, Jwala Mansion, Asafali Road, New Delhi, unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi within ten days of the date of issue of this notice by the said M/s. The Roadways and General Finance (P) Ltd., 4/2-B, 1st Floor, Jwala Mansion, Asafali Road, New Delhi, or any Bank, or any other party, who may be interested in it.

2. The grounds of the proposed cancellation of the licence in question are that M/s. The Roadways and General Finance (P) Ltd., the aforesaid, were not elligble to the licence in terms of provisions contained in para. 3 of Appendix 26 of the relevant Import Trade Control Policy Book and that the licence has been granted through inadvertance due to misrepresentation of facts by the aforesaid firm.

3. In view of what is stated above, M/s. The Roadways & General Finance (P) Ltd., 4/2-B, 1st Floor Jwala Mansion, Asafali Road, New Delhi or any Bank or any other party, who may be interested in the said licence No. A665914/61 dated 3rd March 1962, are hereby directed not to enter into any commitments against the said licence and return the same immediately to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), Janpath Barracks 'B', New Delhi-1.

[No. DCCI.I(CLA)/195/62.]

S.O. 3585.—It is hereby notified, that in exercise of the powers conferred by Clause-9 of the Imports (Control) Order, 1955, the Government of India, in the Ministry of Commerce and Industry propose to cancel the Import Licence No. A612248/61 dated 3rd May, 1962, valued at Rs. 43,400/- for import of M. V. Parts from G. A. except Union of South Africa and South West Africa granted by the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi to M/s. United India General Finance (P) Ltd., Gadodia Bank Bhawan, Bank Street, Karol Bagh, New Delhi unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi within ten days of the date of issue of this notice by the said M/s. United India General Finance (P) Ltd., Gadodia Bank Bhawan, Bank Street, Karol Bagh, New Delhi, or any bank, or any other party, who may be interested in it.

2. The grounds of the proposed cancellation of the licence in question are that M/s. The United India General Finance (P) Ltd., the aforesaid, were not eligible to the licence in terms of provisions contained in para 3 of Appendix 26 of the relevant Import Trade Control Policy Book and that the licence has been granted through inadvertance due to misrepresentation of facts by the aforesaid firm.

3. In view of what is stated above, M/s. the United India General Finance (P) Ltd., Gadodia Bank Bhawan, Bank Street, Karol Bagh, New Delhi or any Bank or any other party, who may be interested in the said licence No. A612248/61 dated 3rd May, 1962, are hereby directed not to enter into any commitments against the said licence and return the same immediately to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), Janpath Barracks 'B' New Delhi-1.

[No. DCCI. I(CLA)/195/62.]

S.O. 3586.—It is hereby notified, that in exercise of the powers conferred by Clause-9 of the Imports (Control) Order, 1955, the Government of India, in the Ministry of Commerce and Industry propose to cancel the Import Licence No. A665916/61 dated 2nd March, 1962 valued at Rs. 31,150/- for import of M. V. Parts from G. A. except Union of South Africa and South West Africa granted by the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi to M/s. Ravindra Finance Co., 3-A, Asafali Road, New Delhi, unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi within ten days of the date of issue of this notice by the said M/s. Ravindra Finance Co., 3-A, Asafali Road, New Delhi or any Bank, or any other party, who may be interested in it.

2. The grounds of the proposed cancellation of the licence in question are that M/s. Ravindra Finance Co., the aforesaid, were not eligible to the licence in terms of provisions contained in para 3 of Appendix 26 of the relevant Import Trade Control Policy Book and that the licence has been granted through inadvertance due to misrepresentation of facts by the aforesaid firm.

3. In view of what is stated above, M/s. Ravindra Finance Co., 3-A, Asafali Road, New Delhi or any Bank or any other party, who may be interested in the said licence No. A665916/61 dated 2nd March, 1962, are hereby directed not to enter into any commitments against the said licence and return the same immediately to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), Janapath Barracks 'B' New Delhi-1.

[No. DCCI. I(CLA)/195/62.]

S.O. 3587.—It is hereby notified, that in exercise of the powers conferred by Clause-9 of the Imports (Control) Order, 1955, the Government of India, in the Ministry of Commerce and Industry propose to cancel the Import Licence No. A 612249/61, dated 3rd May, 1962 valued at Rs. 38,450/- for import of M.V. Parts from G.A. except Union of South Africa and South West Africa granted by the Deputy Chief Controller of Imports & Exports (Central Licensing Area), New Delhi to M/s. Delhi Auto & General Finance (P) Ltd., 3/15-A, Asafali Road, New Delhi unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi within ten days of the date of issue of this notice by the said M/s. Delhi Auto & General Finance (P) Ltd., 3/15-A, Asafali Road, New Delhi, or any Bank, or any other party, who may be interested in it.

2. The grounds of the proposed cancellation of the licence in question are that M/s. Delhi Auto & General Finance (P) Ltd., the aforesaid, were not eligible to the licence in terms of provisions contained in para 3 of Appendix 26 of the relevant Import Trade Control Policy Book and that the licence has been granted through inadvertance due to misrepresentation of facts by the aforesaid firm.

3. In view of what is stated above, M/s. Delhi Auto and General Finance (P) Ltd., 3/15-A, Asafali Road, New Delhi or any Bank or any other party, who may be interested in the said Licence No. A 612249/61, dated 3rd May, 1962 are hereby directed not to enter into any commitments against the said licence and return the same immediately to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), Janpath Barracks 'B', New Delhi-1.

[No. DCCI. I(CLA)/195/62.]

S.O. 3588.—It is hereby notified, that in exercise of the powers conferred by clause-9 of the Imports (Control) Order, 1955, the Government of India, in the Ministry of Commerce and Industry propose to cancel the Import Licence No. A 612247/61, dated 3rd May, 1962 valued at Rs. 22,400 for M.V. Parts from G.A. except Union of South Africa and South West Africa, granted by the Deputy Chief Controller of Imports & Exports (Central Licensing Area), New Delhi to M/s. Krishna Transport Finance (P) Ltd., Bank Street, Karol Bagh, New Delhi, unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi within ten days of the date of issue of this notice by the said M/s. Krishna Transport Finance (P) Ltd., Bank Street, Karol Bagh, New Delhi, or any Bank or any other party, who may be interested in it.

2. The grounds of the proposed cancellation of the licence in question are that M/s. Krishna Transport Finance (P) Ltd., the aforesaid, were not eligible to the licence in terms of provisions contained in para 3 of Appendix 26 of the relevant Import Trade Control Policy Book and that the licence has been granted through inadvertance due to misrepresentation of facts by the aforesaid firm.

3. In view of what is stated above, M/s. Krishna Transport Finance (P) Ltd., Bank Street, Karol Bagh, New Delhi or any Bank or any other party, who may be interested in the said licence No. A 612247/61, dated 3rd May 1962 are hereby directed not to enter into any commitments against the said licence and return the same immediately to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi.

[No. DCCI. I(CLA)/195/62.]

S.O. 3589.—It is hereby notified, that in exercise of the powers conferred by Clause-9 of the Imports (Control) Order, 1955, the Government of India, in the Ministry of Commerce and Industry propose to cancel the Import Licence No. A 664883/61, dated 26th March, 1962 valued at Rs. 1,54,350/- for Import of M.V. Parts from G.A. except Union of South Africa and South West Africa, granted by the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi to M/s. B. Dharam Singh Babek Singh, 12, Roshanara Road, Delhi-6, unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi within ten days of the date of issue of this notice by the said M/s. B. Dharam Singh Babek Singh, 12, Roshanara Road, Delhi-6 or any Bank, or any other party, who may be interested in it.

2. The grounds of the proposed cancellation of the licence in question are that M/s. B. Dharam Singh Babek Singh, the aforesaid, were not eligible to the licence in terms of provisions contained in para 3 of Appendix 26 of the relevant Import Trade Control Policy Book and that the licence has been granted through inadvertance due to misrepresentation of facts by the aforesaid firm.

3. In view of what is stated above, M/s. B. Dharam Singh Babek Singh, 12, Roshanara Road, Delhi-6 or any Bank or any other party, who may be interested in the said licence No. A 664883/61, dated 26th March 1962 are hereby directed not to enter into any commitments against the said licence and return the same immediately to the Deputy Chief Controller of Imports and Exports (Central Licensing Area), Janpath Barracks 'B', New Delhi-1.

[No. DCCI. I(CLA)/195/62.]

RAM MURTI SHARMA,
Dy. Chief Controller of Imports & Exports.

(Office of the Chief Controller of Imports and Exports)

ORDER

New Delhi, the 16th November 1962

S.O. 3590.—Whereas Import licence No. 991491|F.C.|61|HQ|CG, dated 22nd December 1961 valued at Rs. 39,19,000 for import of Capital Machinery and equipment for the manufacture of Steel wire ropes from West Germany granted by the Chief Controller of Imports and Exports, New Delhi to M/s. H. K. Industries Pvt Ltd., 87, Nagdevi Cross Lane, Bombay-3, was obtained *inter-alia* on the condition that payment for the goods will be met out of the following amounts:—

(1) Fresh foreign capital	Rs. 12,50,000/-
(2) I.C.I.C.I. foreign exchange loan	Rs. 26,69,000/-

but whereas the above said firm have failed to obtain foreign exchange loan from the I.C.I.C.I., as mentioned at (2) above, whereas Notice No. CG.I/1(79)/2-60/491, dated 28th August 1962 asking the said firm why the said licence should not be cancelled, has been received by the firm, but whereas no other Bank or any party, who may be having interest in the said licence has come forward and whereas in their representation the said firm have not furnished sufficient cause against the cancellation of the said licence, the Government of India, in the Ministry of Commerce and Industry, in exercise of the powers conferred by clause 9 of the Import (Control) Order 1955 dated the 7th December, 1955, as amended, hereby cancel the said licence No. 991491/F.C./61/HQ/CG, dated 22nd December 1961 issued to the said M/s. H. K. Industries Pvt. Ltd., 87, Nagdevi Cross Lane, Bombay-3.

[No. CG.I/1(79)/2-60.]

J. S. BEDI,
Dy. Chief Controller of Imports and Exports
for Chief Controller of Imports and Exports.

(Indian Standards Institution)

New Delhi, the 20th November, 1962

S.O. 3591.—In exercise of the powers conferred by sub-regulation (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1961 and 1962, the Indian Standards Institution hereby notifies the issue of errata slips particulars of which are given in the column (4) of the Schedule hereto annexed, in respect of the Indian Standards specified in column (2) of the said Schedule.

THE SCHEDULE

Sl. No.	No. and Title of Indian Standard	No. and date of Gazette Notification in which establishment of Indian Standard was notified	Particulars of Errata Slip Issued
(1)	(2)	(3)	(4)
1	IS:694-1960 Specification for PVC Cables and Cords for Electric Power and Lighting for Working Voltages Up to and Including 650 Volts to Earth (*Tentative, Amended*)	S.O. 2609 dated 29 October 1960.	Page 2, lines 6 and 7—Delete the existing matter and substitute the following : (Sub-sub-clause 10·5·1·4)—Add the following as a new paragraph after this sub-sub-clause.
2	IS:1763-1961 Specification for Substances of Paper and Pulp Board.	S.O. 1767 dated 9 June 1962.	Page 3, Table I—Substitute the following for the existing Table I : TABLE I—Preferred Substances of Paper and Pulp Board

SUBSTANCE g/m²	WEIGHT OF 500 SHEETS OF UNTRIMMED PAPER, kg						
	RAO Standard	RAO Special	RAI Standard	RAI Special	RBI Standard	RCI Standard	RCI Special
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
40	21·0	21·8	10·5	10·9	15·8	12·6	13·1
44	23·1	24·0	11·5	12·0	17·3	13·9	14·4
48	25·2	26·2	12·6	13·1	18·9	15·1	15·7
52	27·3	28·4	13·6	14·2	20·5	16·4	17·0
56	29·4	30·6	14·7	15·3	22·0	17·6	18·3
60	31·5	32·7	15·7	16·4	23·6	18·9	19·6
75	39·3	40·9	19·7	20·5	29·5	23·6	24·5
90	47·2	49·1	23·6	24·6	35·4	28·3	29·4

			110	57·7	60·0	28·9	30·0	43·3	34·6	35·9
			130	68·2	70·9	34·1	35·5	51·2	40·9	42·4
			150	78·7	81·8	39·3	40·9	59·1	47·2	49·0
			175	91·8	95·5	45·9	47·7	68·9	55·1	57·1
			200	104·9	109·1	52·5	54·6	78·8	63·0	65·3
			225	118·0	122·8	59·0	61·4	88·6	70·9	73·4
			275	144·3	150·0	72·1	75·0	108·3	86·6	89·8
			325	170·5	177·3	85·2	88·7	128·0	102·3	106·1
3	IS : 1831-1961 Dimensions for Milling Cutters.	S.O. 3062 dated 30 December 1961.	(*i*) Page 5, Table II (*i*) Under col 'ARBOR' please read b_2 h11 for b_1 h_2 h11 for h_2 (*ii*) Under col 'BORE' please read b_2 H11 for b_1 h_2 H12 for h_2 (*ii*) Page 16, Table XII—Insert the following caption below the left-hand side figure : 'Type A With Flat Face, Straight Fluted' (*iii*) Page 18, Table XIV, 4th entry under 'Diameter of Bore' please read '32' for '31'.							

Copies of these Errata Slips are available, free of cost, with the Indian Standards Institution, Manak Bhavan, 9 Mathura Road, New Delhi—1 and also at its Branch Offices at (*i*) 232 Dr. Dadabhoy Naoroji Road, Bombay-1, (*ii*) Third Floor, 11 Sooterkin Street, Calcutta-13, (*iii*) 2/21 First Line Beach, Madras-1, and (*iv*) 14/69 Civil Lines, Kanpur.

[No. MD/13:6]

S.O. 3592—In pursuance of sub-regulation (1) of regulation 5 of the Indian Standards Institution (Certification Marks), Regulations, 1955, as amended in 1961 and 1962, the Indian Standards Institution hereby notifies that the Indian Standard, particulars of which are given in the Schedule hereto annexed, has been cancelled.

THE SCHEDULE

Sl. No.	No. and title of the Indian Standard cancelled	No. and Date of Gazette Notification in which Establishment of the Indian Standard was notified
1	IS:485-1953 Methods for Sampling and testing of Refractory Materials (*Tentative*)	S.R.O. 658 dated 21 March 1955 published in the Gazette of India, Part II-Section 3 dated 26 March 1955.

[No. MD/13:7]

S.O.3593—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1961 and 1962, the Indian Standards Institution hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed, have been established during the period 1 November, 1962 to 15 November, 1962.

THE SCHEDULE

Sl. No.	No. and Title of the Indian Standard established	No. and Title of the Indian Standard or Standards, if any superseded by the new Indian Standard	Brief Particulars
(1)	(2)	(3)	(4)
1	IS:102-1962 Specification for Ready Mixed Paint, Brushing, Red lead, Nonsetting, Priming (*Revised*)	IS:102-1950 Specification for Ready Mixed Paint, Brushing, Red Lead, Nonsetting, Priming	This standard prescribes the requirements and the methods of test for the material commercially known as ready mixed paint, brushing, red lead, nonsetting, priming. The material is usd for the protection of structural steelwork. (Price Re 1·00).
2	IS:103-1962 Specification for Ready Mixed Paint, Brushing, White Lead, for Priming and General Purposes (*Revised*)	IS:103-1950 Specification for Ready Mixed Paint, Brushing, White Lead for Priming and General Purposes	This standard prescribes the requirements and the methods of test for the material commercially known as ready mixed Paint, brushing, white lead, for priming and general purposes. The material is mainly used for priming wood surfaces and also as a general purpose finishing paint. (Price Rs.1·50).
3	IS:106-1962 Specification for Ready Mixed Paint, Brushing, Priming for Enamels, for Use on Wood (*Revised*)	IS:106-1962 Specification for Ready Mixed Paint, Brusing, Priming for Enamels for Use on Wood	This standard prescribes the requirements and the methods of test for the material commercially known as ready mixed paint, brushing, priming, for enamels, for use on wood. The material is used in the priming system normally followed in the application of enamels on wood surfaces where the use of lead paint is discouraged on account of health hazards or other reasons (Price Rs. 1·50).

(1)	(2)	(3)	(4)
4	IS:561-1962 Specification for BHC Dusting Powders (*Second Revision*)	IS:561-1958 Specification for BHC Dusting Powders (*Revised*)	This standard prescribes the requirements and the methods of test for BHC Dusting Powders formulated from BHC, technical and containing varying, percentages of BHC (Price Rs. 2·50).
5	IS:562-1962 Specification for BHC Water Dispersible Powder Concentrates (*Second Revision*)	IS:562-1958 Specification for BHC Water Dispersible Powder Concentrates (*Revised*)	This standard prescribes the requirements and the methods of test for BHC (benzene hexachloride) water dispersible powder concentrates containing varying percentages of gamma-isomer of BHC (Price Rs. 4·50).
6	IS:651-1962 Specification for Salt-Glazed Stoneware Pipes and Fittings (*Revised*).	IS:651-1955 Specification for Salt-Glazed Stoneware Pipes and Fittings	This specification lays down the material and performance requirements for the following stoneware pipes and fittings :— (*a*) Straight pipes (*b*) Fittings : (i) Taper pipes; (ii) Bends ; (*iii*) Taper bends ; (*iv*) Junctions ; (*v*) Half-section channels, straight and taper ; (*vi*) Channel junctions ; (*vii*) Channel bends ; (*viii*) Channel interceptors ; (*ix*) Gully traps ; and (*x*) Inspection pipes. (Price Rs. 4·50).
7	IS:986-1962 Specification for cotton Spindle Tape (For Wool Textile Mills)	..	This standard prescribes constructional details and other particulars of five varieties of cotton spindle tape for wool textile mills (Price Rs. 2·50).
8	IS:1058-1962 Specification for Commercial Metric Capacity Measures (*Revised*)	IS:1058-1957 Specification for Commercial Metric Capacity Measures.	This standard prescribes the requirements for metric capacity measures of cylindrical and conical shapes, intended for use in normal commercial transactions. These measures are intended for measuring liquids only (Price Rs. 2·00).
9	IS:1528—1962 Methods of Sampling and Physical Tests for Refractory Materials	IS:485-1953 Methods for Sampling and Testing of Refractory Materials (*Tentative*)	This standards prescribes the methods of sampling and physical tests for refrectory raw materials, finished bricks and shapes and mortars (Price Rs. 6·00).
10	IS:1874-1962 Specification for Ready Mixed Paint, Universal Zinc Chrome, Priming (Synthetic) for Light Alloys for Aircraft	..	This specification prescribes the requirements and the methods of test for the material commercially known as ready mixed paint, universal zinc chrome, priming (synthetic) for light alloys used by the aircraft industry. The material is used for the protection of light alloys and in some cases steelwork. It may be used both under marine and inland outdoor conditions. (Price Rs. 2·00).

(1)	(2)	(3)	(4)
11	IS:1983-1962 Shank Sections for Single Point Turning and Planing Tools	..	This standard specifies the shank sections and their tolerances for single point tools used in turning, planing, shaping and similar operations (Price Re. 1·00).
12	IS:2007-1961 Method for Calibration of Vertical Oil Storage Tanks	..	This standard prescribes methods for calibration of vertical tanks by strapping and internal measurements. These tanks are meant for bulk storage of petroleum and liquid petroleum products (Price Rs. 5·00).
13	IS:2056-1962 Reference Tables for Copper—Constantan Thermocouples	..	This standard gives the reference tables of emf—temperature relationship for copper—constantan thermocouples (Price Re. 1·00).
14	IS:2057-1962 Reference Tables for Iron—Constantan Thermocouples	..	This standard gives the reference tables of emf—temperature relationship for iron—constantan thermocouples (Price Rs. 2·00).
15	IS:2113-1962 Methods for Assaying of Silver and Silver Alloys	..	This standard prescribes gravimetric and volumetric methods, for assaying of silver and silver alloys either of which may be used for this purpose (Price Rs. 1·50).
16	IS:2128-1962 Specification for Parathion, Technical	..	This standard prescribes the requirements and the methods of test for parathion technical, employed in the preparation of insecticidal formulations. (Price Rs. 2·50).
17	IS:2139-1962 Specification for Rayon Striped Shirting Cloth	..	This specification prescribes constructional details and other particulars of finished and unfinished rayon striped shirting cloth produced with 3 different loom-settings (Price Rs. 2·50).
18	IS:2150-1962 Specification for Rayon Palace Crepe	..	This specification prescribes constructional details and other particulars of finished and unfinished (*a*) rayon palace crepe, undyed ; (*b*) rayon palace crepe, dyed ; and (*c*) rayon palace crepe, printed ; produced with 3 different loom-settings (Price Rs. 2·50).
19	IS:2156-1962 Code for Packing Raw Wool for Export	..	This code prescribes the method of packing raw wool for export purposes (Price Rs. 1·50).
20	IS:2165-1962 Guide for Insulation Co-ordination	..	This standard guide for insulation co-ordination applies to apparatus for use in exposed installations for AC systems having the highest system voltages of above 1 kV and up to 420 kV (Price Rs. 2·00).

(1)	(2)	(3)	(4)
21	IS:2173-1962 Specification for Handloom Melton (Shoddy) Cloth	..	This standard prescribes constructional details and other particulars of two varieties of handloom melton (shoddy) cloth (Price Rs. 1·50).

Copies of these Indian Standards are available, for sale, with the Indian Standards Institution 'Manak Bhavan', 9 Mathura Road, New Delhi—1, and also at its Branch Offices at (*i*) 232 Dr. Dadabhoy Naoroji Road, Fort, Bombay-1, (*ii*) Third Floor, 11 Scoterkin Street, Calcutta-13, (*iii*) 2/21 First Line Beach, Madras-1, (*iv*) 14/69 Civil Lines, Kanpur.

[No. MD/13:2]

C. N. MODAWAL,
Head of the Certification Marks Division

MINISTRY OF STEEL AND HEAVY INDUSTRIES

(Department of Heavy Industries)

ORDERS

New Delhi, the 24th November 1962

S.O. 3594/ECA/1/62.—In exercise of the powers conferred by sub-clause (xi) of clause (a) of section 2 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby declares 'Cement' to be an essential commodity for the purposes of the said Act.

[No. 14-6/62-Cem.]

S.O. 3595/ECA/2/62.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order, namely:—

1. **Short title and extent.**—(1) This Order may be called the Cement (Quality Control) Order, 1962.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. **Definitions.**—In this Order, unless the context otherwise requires,—

(a) "cement" means any variety of portland cement manufactured in India and includes blast furnace slag cement, rapid hardening cement, low heat cement, or any other variety of cement which the Central Government may, by notification in the Official Gazette, specify for the purposes of this Order;

(b) "prescribed standard" means the Indian Standard

(i) No. IS:269-1958 relating to portland cement, rapid hardening cement and low heat cement, and

(ii) No. IS:455-1962 relating to blast furnace slag cement.

Explanation.—Cement shall not be deemed to be of prescribed standard if it is not of the nature, substance or quality, which it purports or it represents to be.

3. **Prohibition of manufacture, sale, etc. of cement which is not of the prescribed standard.**—No person shall himself or by any person on his behalf, manufacture or store for sale, sell or distribute any cement which is not of the prescribed standard.

[No. 14-6/62-Cem.]

P. R. NAYAK, Under Secy.

MINISTRY OF MINES & FUEL

New Delhi, the 21st November 1962

S.O. 3596.—Whereas it appears to the Central Government that Coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

Drawing No. Rev/44/62
Dated 16-6-62

SCHEDULE

S. No.	Village	Thana	Thana No.	District	Area	Remarks
1.	Chandrabad	Jharia	159	Dhanbad	145.00	Part.
				Total:—	145.00 Acres (Approx.) or 58.73 hectares (Approx)	

Boundary Description

A-B line passes along part western boundary of village Chandrabad and meeting at point B.

B-C line passes through village Chandrabad and meeting on the common boundary of village Chasnala and Chandrabad at point C.

C-D line passes through village Chandrabad and meeting at point D.

D-E line passes through village Chandrabad and meeting on the common boundary of villages Chandrabad and Sudamdih at point E.

E-A line passes along the part common boundary of villages Chandrabad and Sudamdih and meeting at point A.

The map of the area covered by this notification can be inspected at the office of the National Coal Development Corporation Ltd. (Revenue Section), Darbhanga House, Ranchi, or at the office of the Deputy Commissioner, Dhanbad (Bihar).

[No. C2-20(34)/62.]

P. S. KRISHNAN, Under Secy.

ORDERS

New Delhi, the 22nd November 1962

S.O. 3597.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the powers conferred on it by section 3 of the said Act to make orders under clauses (c), (d), (e), (f), (h), (i), (ii) and (j) of sub-section (2) of that section shall, in relation to petroleum and petroleum products (other than Kerosene), be exercisable also by the State Government of Andhra Pradesh and with the previous consent of that Government, by an officer subordinate to it and not below the rank of a District Magistrate.

[F. No. 104(22)/59.PPD.]

S.O. 3598.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955) and in supersession of the notification of the Government of India in the late Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) No. S.O. 452, dated the 20th February, 1959, the Central Government hereby directs that the powers conferred on it by section 3 of the said Act

to make orders under clauses (c), (d), (e), (f), (h), (i), (ii) and (j) of sub-section (2) of that section shall, in relation to Kerosene be exercisable also by the State Government of Orissa and with the previous consent of that Government, by an officer subordinate to it and not below the rank of a District Magistrate.

[F. No. 105(7)/60-PPD.]

S.O. 3599.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the powers conferred on it by section 3 of the said Act to make orders under clauses (c), (d), (e), (f), (h), (i), (ii) and (j) of sub-section (2) of that section shall, in relation to petroleum and petroleum products, be exercisable also—

(a) in the Nagaland, by the Chief Secretary, and with his previous consent by an officer subordinate to him and not below the rank of a Deputy Commissioner or Additional Deputy Commissioner;

(b) in the North East Frontier Agency, by Adviser to the Governor of Assam or the Additional Adviser to the Governor of Assam and with the previous consent of either of them, by an officer subordinate to them and not below the rank of a Political Officer or Additional Political Officer.

[F. No. 101(62)/62-PPD.]

S.O. 3600.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the powers conferred on it by section 3 of the said Act to make orders under clause (ii) of sub-section (2) of that section shall, in relation to petroleum products in the Union territory of Tripura, be exercisable also by the Chief Commissioner of that territory.

[F. No. 7(8)/58.PPD.]

S.O. 3601.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the powers conferred on it by section 3 of the said Act to make orders under clauses (h) and (ii) of sub-section (2) of that section shall, in relation to Kerosene, be exercisable also by the State Government of Assam and with the previous consent of that Government by an officer subordinate to it and not below the rank of a Sub-divisional Officer.

[No. 7(3)/58-PPD.]

S.O. 3602.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the powers conferred on it by section 3 of the said Act to make orders under clauses (d), (i) and (ii) of sub-section (2) of that section shall in relation to Kerosene be exercisable also by the State Government of Andhra Pradesh and with the previous consent of that Government, by an officer Subordinate to it and not below the rank of a District Collector.

[F. No. 104(22)/59.PPD.]

S.O. 3603.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the powers conferred on it by section 3 of the said Act to make orders under clause (ii) of sub-section (2) of that section shall, in relation to kerosene, be exercisable also by the Chief Commissioner of Manipur and with the previous consent of the Chief Commissioner, by the Deputy Commissioner, Manipur, within that Union territory.

[F. No. 7(6)/58.PPD.]

S.O. 3604.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the powers conferred on it by section 3 of the said Act to make orders under clauses (c), (d), (e), (f), (h), (i), (ii) and (j) of sub-section (2) of that section

shall, in relation to petroleum and petroleum products, be exercisable also by the administrator of the Union territory of Laccadive, Minicoy and Amindivi Islands and with his previous consent, by an officer subordinate to him and not below the rank of a District Magistrate.

[F. No. 101(73)/62.PPD.]

S. D. BHAMBRI, Dy. Secy.

MINISTRY OF FOOD & AGRICULTURE

(Department of Agriculture)

New Delhi, the 22nd November 1962

S.O. 3605.—In pursuance of clause (f) of section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), and clause (i) of rule 4 of the General Grading and Marking Rules, 1937 and in supersession of the notification of the Government of India in the Ministry of Food and Agriculture (Department of Agriculture) No. S.O. 3056, dated the 28th September, 1962, the Central Government hereby fixes, with effect from the date of publication of this notification, the undermentioned charges for Agmark Labels to be affixed on the containers of cardamoms, graded under Agmark, namely:—

(i) Rs. 0·45 nP. per case upto 13 kg. (nett).

(ii) Rs. 0·95 nP. per case above 13 kg. and upto 25 kg. (nett).

(iii) and Rs. 1·87 nP. per case above 25 kg. and upto 50 kg. (nett).

[No. F. 20-3/59-AM (i).]

S.O. 3606.—In pursuance of clause (f) of section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), and clause (i) of rule 4 of the General Grading and Marking Rules, 1937, and in supersession of the notification of the Government of India in the Ministry of Food and Agriculture (Department of Agriculture) No. S.O. 3057, dated the 28th September, 1962, the Central Government hereby fixes, with effect from the date of publication of this notification, the undermentioned charges for Agmark Labels to be affixed on the containers of Black Pepper, namely:—

Rs. 0·46 nP. per bag of 77 kg. or part thereof of Black-Pepper graded under Agmark.

[No. F. 20-3/59-AM (ii).]

S.O. 3607.—In pursuance of clause (f) of section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) and clause (i) of rule 4 of the General Grading and Marking Rules, 1937 and in supersession of the notification of the Government of India in the Ministry of Food and Agriculture (Department of Agriculture) No. S.O. 3058, dated the 28th September, 1962, the Central Government hereby fixes, with effect from the date of publication of this notification, the undermentioned charges for Agmark Labels to be affixed on the containers of Chillies, namely:—

Rs. 0·21 nP. per bag of 25 kg. or part thereof of Chillies graded under Agmark.

[No. F. 20-3/59-AM (iii).]

V. S. NIGAM, Under Secy.

(Department of Agriculture)

New Delhi, the 22nd November 1962

S.O. 3608.—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central

Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendments in the notification of the Government of India in the late Ministry of Agriculture No. S.R.O. 634-A, dated the 28th February, 1957, namely:—

In the Schedule to said notification:—

(i) in part I—General Central Service, Class III, for the sub-heading "Soil Conservation Research Demonstration and Training Centres, Dehradun/Kotah/Bellary/Ootacamund/Chatra/Vasad", the sub-heading "Soil Conservation Research Demonstration and Training Centres, Dehra Dun/Kotah/Bellary/Ootacamund/Vasad/Ibrahimpatan" shall be substituted.

(ii) in Part II—General Central Service, Class IV, for the sub-heading "Soil Conservation Research Demonstration and Training Centres, Dehradun/Kotah/Bellary/Ootacamund/Chatra/Vasad" the sub-heading "Soil Conservation Research Demonstration and Training Centres, Dehra Dun/Kotah/Bellary/Ootacamund/Chatra/Vasad/Ibrahimpatan" shall be substituted.

[No. 21-84/57-Soil Cons.]

B. D. KAPUR, Under Secy.

MINISTRY OF TRANSPORT AND COMMUNICATIONS

(Department of Transport)

(Transport Wing)

New Delhi, the 22nd November 1962

S.O. 3609.—In exercise of the powers conferred by rule 130 and clause (1) of sub-rule (2) of rule 131 of the Defence of India Rules, 1962, the Central Government hereby makes the following order, namely:—

Nothing in any restriction imposed by or under the following sections or the Motor Vehicles Act, 1939 (4 of 1939), in relation to the matters specified therein shall apply to, or to the driver or other person in charge of, any motor vehicle which is used for the transport of goods or personnel for securing the defence of India and civil defence, for the efficient conduct of military operations, or for maintaining supplies and services essential for defence, namely:—

Sections 9(3), 29(1), 29(3), 30(1), 42(1), 43(1)(ii), 63(1) and 74:

Provided that the driver or other person in charge of the vehicle carries with him a certificate signed by a District Magistrate or the Area Commanding Officer, to the effect that the vehicle concerned (registered number, make and model of the vehicle to be specified in the certificate) is entitled to exemption under this Order for the period and the areas specified therein.

[No. 1-T.L(56)/62.]

New Delhi, the 24th November 1962

S.O. 3610.—In pursuance of rule 107 of the Defence of India Rules, 1962, the Central Government hereby appoints the following Officers to exercise the powers of competent authority under the provisions of Part XI of the said rules for the

purpose of requisitioning or acquisition of inland water craft propelled either by steam or by diesel oil:—

1. The Principal Officer, Mercantile Marine Department, Calcutta.

2. The Principal Officer, Mercantile Marine Department, Bombay.

3. The Principal Officer, Mercantile Marine Department, Madras.

[No. I-T(217)/62.]

K. SRINIVASAN, Dy. Secy.

(Department of Transport)

(Transport Wing)

LIGHTHOUSES AND LIGHTSHIPS

New Delhi, the 26th November 1962

S.O. 3611.—In exercise of the powers conferred by sub-section (1) of section 10 of the Indian Lighthouse Act, 1927 (17 of 1927) and in supersession of the notification of the Government of India in the Ministry of Transport and Communications (Department of Transport) No. S.O. 2832 dated the 28th November 1961, the Central Government hereby prescribes that all ports in India light-dues shall be payable at the rates specified below, namely:—

(a) All ships, other than sailing ships, arriving at or departing from any port in India, at the rate of fifty naye paise per ton; and

(b) Sailing ships, at the rate of six naye paise per ton.

[No. 14-ML(56)/62.]

B. P. SRIVASTAVA, Dy. Secy.

(Departments of Communications and Civil Aviation)

(P. & T. Board)

New Delhi, the 23rd November 1962

S.O. 3612.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules, namely:—

1. **Short title.**—These rules may be called the Metallurgist (Posts and Telegraphs Workshops Organisation) Recruitment Rules, 1962.

2. **Application.**—These rules shall apply to the post specified in column 1 of the Schedule hereto annexed.

3. **Number of posts, classification and scale of pay.**—The number and classification of the posts and the scale of pay attached thereto shall be as specified in columns 2, 3 and 4 of the said Schedule.

4. **Method of recruitment.**—The method of recruitment to the posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the said Schedule.

Provided that the upper age limit specified in column 6 of the said Schedule may be relaxed—

(a) in the case of Government servants, and

(b) in the case of Schedule Castes and Schedule Tribes candidates and other categories of persons,

in accordance with the general orders of the Central Government issued from time to time.

5. **Disqualifications.**—(a) No person who has more than one wife living or who, having a spouse living, marries in any case in which such marriage is void by reason of its taking place during the life time of such spouse, shall be eligible for appointment to the said posts, and

(b) no woman, whose marriage is void by reason of the husband having a wife living at the time of such marriage or who has married a person who has a wife living at the time of such marriage, shall be eligible for appointment to the said posts:

Provided that the Central Government may, if satisfied that there are special grounds for so doing, exempt any person from the operation of this rule.

THE SCHEDULE

Name of post	No. of posts	Classification	Scale of pay	Whether selection post or non-selection post	Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promotees	Period of probation if any	Method of recruitment—whether by direct recruitment or by promotion or transfer and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/transfer, grades from which promotion to be made	If a DPC exists what is its composition	Circumstances in which U.P.S.C. is to be consulted in making recruitment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Metallurgist.	3	G.C.S. Class II Gazetted (Non-Ministerial).	Rs. 350—25—560—20—590—EB—30—800—EB—830—35—900.	..	30 years and below.	*Essential* : (1) Degree in Metallurgy or Metallurgical Engineering of a recognised university or equivalent diploma. Qualifications relaxable at Commission's discretion in case of candidates otherwise well qualified.	..	2 years	Deputation failing which by direct recruitment.	*Deputation* : Suitable officers of Central Government holding analogous posts. (Period of deputation not exceeding 3 years.)	..	As required under the rules.

	Desirable : Experience in industry or in a Laboratory of testing of ferrous and non-ferrous materials or alloys.

[No. 2-5/61-WK.]

D. J. MADAN,
Secretary, P. & T. Board.

MINISTRY OF EDUCATION

New Delhi, the 24th November 1962

S.O. 3613.—In exercise of tht powers conferred by sub-section (2) of section 5 of the University Grants Commission Act, 1956 (3 of 1956), the Central Government hereby reappoints Shri D. C. Pavate, Vice-Chancellor, Karnatak University and Prof. A. R. Wadia, Member of Parliament as members of the University Grants Commission on expiry of their term.

In exercise of the powers conferred by clause (c) of sub-section (2) of section 5 of the said Act, the Central Government also appoints Shri B. Shiva Rao, as a member of the University Grants Commission *vice* Dewan Anand Kumar, retired.

[No. F. 24-45/62-U.5.]

P. N. KIRPAL, Secy.

MINISTRY OF WORKS, HOUSING & SUPPLY

(Department of Rehabilitation)

New Delhi, the 23rd November 1962

S.O. 3614.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties in the state of Delhi specified in the Schedule below for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of Displaced Persons (Compensation and Rehabilitation) Act, 1954, (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquire the said evacuee properties (specified in the Schedule below):—

THE SCHEDULE

S. No.	Particulars of evacuee property	Name of the town and locality in which the evacuee property is situated	Name of evacuee	Parentage of evacuee
1.	VI/1045 (Old) 2118 and 2133 (New)	Abata Kale Sahib Gali Qasim Jan, Delhi.	Mst. Niamat Bi	D/o deceased Mohd. Yaqub.

[No. 13(2) Comp. & Prop/61.]

M. J. SRIVASTAVA,
Settlement Commissioner & Ex-Officio Under Secy.

(Department of Rehabilitation)
(Office of the Chief Settlement Commissioner)

New Delhi, the 20th November 1962

S.O. 3615.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (No. 44 of 1954) the Central Government hereby appoints for the State of Uttar Pradesh, Shri L. C. Pant, Managing Officer in the office of the Regional Settlement Commissioner, Lucknow as Managing Officer for the custody, management and disposal of Compensation Pool with effect from the date he took over charge of his office.

[No. 7/14/ARG/62.]

New Delhi, the 24th November 1962

S.O. 3616.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954), the Central Government hereby appoints Shri A. L. Bahl, as Settlement

Officer for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the date he took charge of his office.

[No. 11(17)/CSC/AI-61-ARG.]

S.O. 3617.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri Brijinder Singh, in the office of the Regional Settlement Commissioner, Jullundur as Asstt. Settlement Commissioner, for the purpose of performing the functions assigned to such officer by or under the said Act with effect from the date he took over charge of his post.

[No. 5(11)ARG/62.]

New Delhi, the 26th November 1962

S.O. 3618.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954) the Central Government hereby appoints for the Faridabad Township, Shri B. R. Malik, Assistant Settlement Officer in the office of the Chief Settlement Commissioner, New Delhi as Managing Officer for the custody, management and disposal of Compensation Pool with effect from the date he took over charge of his office.

[No. 8/248/ARG/62.]

S.O. 3619.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954), the Central Government hereby appoints for the State of Kerala, Shri S. Ramakrishnan, Accounts Officer (Junior) under the Regional Settlement Commissioner, Bombay as Managing Officer for the custody, management and disposal of Compensation Pool with effect from the date he took over charge of his office.

[No. 4(19)ARG/60.]

S.O. 3620.—In exercise of the powers conferred by Sub-Section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950) the Central Government hereby appoints for the State of Kerala, Shri S. Ramakrishnan, Accounts Officer (Junior) under the Regional Settlement Commissioner, Bombay as Assistant Custodian for the purposes of discharging the duties imposed on Custodian by or under the said Act with effect from the date he took over charge of his office.

[No. 4(19)ARG/60.]

KANWAR BAHADUR,
Settlement Commissioner (A) & *Ex-Officio*
Dy. Secy.

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 22nd November 1962

S.O. 3621.—In exercise of the powers conferred by section 9 of the Minimum Wages Act, 1948 (11 of 1948), the Central Government hereby nominates Shri Teja Singh Sahni, Chief Labour Commissioner (Central) to be the chairman of the Committee constituted under clause (a) of sub-section (1) of section 5 of the said Act by the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 2032, dated the 23rd September 1958, *vice* Shri S. P. Mukherjee (resigned) and makes the following further amendment in the said notification, namely:—

In the said notification in the entries under the heading "I Independent members", for the entry "(1) Shri S. P. Mukherjee, I.A.S., Chief Labour Commissioner (Central), New Delhi, ... chairman", the following entries shall be substituted, namely:—

"(1) Shri Teja Singh Sahni, Chief Labour Commissioner (Central), New Delhi (chairman)".

[No. LWI(I)6(1)/62.]

K. D. HAJELA, Under Secy.

New Delhi, the 22nd November 1962

S.O. 3622/PWA/Mines/Rules/Am.—The following draft of rules further to amend the Payment of Wages (Mines) Rules, 1956, which the Central Government proposes to make in exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24, of the Payment of Wages Act, 1936 (4 of 1936), is published as required by sub-section (5) of the said section 26, and notice is hereby given that the said draft will be taken into consideration on or after the 28th February 1963.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government. Such objection or suggestion should be addressed to the Secretary to the Government of India, Ministry of Labour and Employment, New Delhi.

DRAFT RULES

1. These rules may be alled the Payment of Wages (Mines) Amendment Rules, 1962.

2. In the Payment of Wages (Mines) Rules, 1956—

(i) in rule 3, after sub-rule (5), the following sub-rule shall be inserted, namely:—

"(6) The Register of Fines shall be kept at the workspot or as near to it as possible and maintained upto-date. Where no fine has been imposed or any employee in a wage period, a 'nil' entry shall be made across the body of the register at the end of the wage period indicating also in precise terms the wage period to which the 'nil' entry relates," and

(ii) in rule 4, the following shall be inserted at the end, namely:—

"The register shall be kept at the workspot or as near to it as possible and maintained upto-date. Where no deduction has been made from any employee in a wage period, a 'nil' entry shall be made across the body of the register at the end of the wage period, indicating also in precise terms the wage period to which the 'nil' entry relates."

[No. 535/24/62-Fac.]

New Delhi, the 27th November 1962

S.O. 3623.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri R. P. Kapoor to be an Inspector for the whole of the State of Uttar Pradesh for the purposes of the said Act or of any scheme framed thereunder, in relation to an establishment belonging to, or under the control, of the Central Government, or in relation to any establishment connected with a railway company or a controlled industry.

[No. 21(4)/62-PF.I.]

P. D. GAIHA, Under Secy.

New Delhi, the 24th November 1962

S.O. 3624.—In exercise of the powers conferred by sub-section (1) of section 83 of the Mines Act, 1952 (35 of 1952), and in modification of the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 3340, dated the 5th November 1962, the Central Government hereby exempts, until the 31st December 1962, coal mines from the operation of the provisions of section 28 of the said Act.

[No. 6/10/62-MI.]

R. C. SAKSENA, Under Secy.

New Delhi, the 24th November 1962

S.O. 3625.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Badjna Colliery, Post Office Nirshachati, Dhanbad and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

Reference No. 27 of 1962

PARTIES:

Employers in relation to Badjna Colliery, P.O. Nirshachati,

AND

Their workmen.

PRESENT:

Shri Raj Kishore Prasad, M.A., B.L., Presiding Officer.

APPEARANCES:

For the Employers:

Shri S. S. Kapoor, Chief Personnel Officer.

For the Workmen:

Shri Shankar Bose, Colliery Mazdoor Sangh.

Dhanbad dated the 7 November, 1962

State: Bihar Industry: Coal.

AWARD

This reference, under Section 10(1)(d) of the Industrial Disputes Act, 1947 (XIV of 47), was made by the Ministry of Labour & Employment, Government of India, by its Order No. 2/76/62-LRII dated 4th September 1962, for adjudication to this Tribunal.

2. The item of dispute referred under the said reference, for adjudication was, "Whether the dismissal of Shri Bauna Bhuia, Trammer, by the management of Badjna Colliery was justified? If not, to what relief is he entitled?".

3. Shri Sankar Bose, representing the Colliery Mazdoor Sangh, which represented the workman, and Shri S. S. Kapoor, Chief Personnel Officer, representing the management filed a joint petition of compromise signed by both of them on 31st October 1962, incorporating therein the terms of the compromise arrived at between the employers and the workmen, and, prayed that the award be made in terms thereof.

4. That according to the said compromise the management agreed to reinstate Shri Bauna Bhuia, Depot Trammer, the workman concerned in the dispute, and, in fact he has been reinstated with effect from 15th October 1962, after he had apologised for his fault, and, the management also agreed to treat the period of unemployment from the date of his dismissal till 14th October 1962 as leave without pay and without any break in the continuity of his service.

5. That I have considered the terms of the compromise, and, in my opinion, they are quite fair and reasonable, and, therefore, I accept them and record the compromise as prayed for.

6. That the parties shall bear their own cost as agreed upon by the parties.

7. That, accordingly, the reference is disposed of in terms of the said compromise which is marked Annexure 'A', and which shall form part of this award.

(Sd.) RAJ KISHORE PRASAD,

Presiding Officer,

Central Government Industrial Tribunal,

Dhanbad.

Dhanbad,
7 November 1962.

ANNEXURE A

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, DHANBAD

In the matter of Notification No. 2/78/62-LRII dated 4-9-62.

AND

On the matter of an Industrial Dispute

BETWEEN

Employers in relation to the Badjna Colliery, P.O. Nirshachatti, Dist. Dhanbad

AND

Their Workmen, represented by Colliery Mazdoor Sangh.

Memorandum of Settlement

The parties, aforesaid, most respectfully beg to submit that the aforesaid matter has been amicably settled between the parties on joint negotiations on the following terms:—

(1) That the Management agreed to re-instate Shri Bauna Bhuia, Depot Trammer, the workman concerned in the present dispute, and in fact have re-instated him with effect from 15th October 1962 after he had apologised for his fault.

(2) That the Management agreed to treat the period of unemployment of Shri Bauna Bhuia from the date of his dismissal till 14th October 1962 as leave without pay and without any break in the continuity of his service.

(3) That the parties shall bear their own costs.

(4) That the parties pray that this Hon'ble Tribunal may be graciously pleased to give its award in terms aforesaid.

Shankar Bose,
Colliery Mazdoor Sangh.
For the Workmen

Dated 29-10-62.

S. S. KAPUR,
Chief Personnel Officer,
For the Employers.
Dated 29-10-62.

Filed.

Sd./- RAJ KISHORE PRASAD,
7-11-62.
Presiding Officer,
Central Govt. Industrial Tribunal,
Dhanbad.

[No. 2/78/62-LRII.]

New Delhi, the 26th November, 1962

S.O. 3626.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of application under Section 33A of the said Act from Shri Gokul Singh, Watchman, Watch and Ward Department, Jamadoba, Post Office Jealgora C/o Tata Collieries Workers' Union, Digwadih, Post Office Jealgora, District Dhanbad.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.

In the matter of a Complaint under Section 33A of Industrial Disputes Act, 1947, (XIV of 47), in Reference Nos. 45, 56, 63, 65 and 75 of 1961).

COMPLAINT NO. 15 OF 1962.

PARTIES:

Shri Gokul Singh, Watchman, Watch and Ward Department, Jamadoba, P.O. Jealgora C/o. Tata Collieries Workers' Union, Digwadih, P.O. Jealgora, Dist. Dhanbad.—*Complainant.*

Vs.

The Tata Iron & Steel Co. Ltd., Jamadoba, P.O. Jealgora, Dist. Dhanbad—*Opposite Party.*

PRESENT:

Shri Raj Kishore Prasad, M.A., B.L.,
Presiding Officer.

APPEARANCES:

For the Complainant.—Shri Pritish Chanda, President, Tata Collieries Workers' Union.

For the Opposite Party.—Shri G. Prasad, Chief Personnel Officer, with Shri S. N. Singh, Welfare Officer.

STATE : Bihar. INDUSTRY : Coal.

Dhanbad, the 27th October 1962

AWARD

This Complaint under Section 33A of the Industrial Disputes Act, 1947 (XIV of 47)—hereinafter referred to as the Act—has been made on 16th May 1962 by Gokul Singh, the workman, of Jamadoba colliery against his dismissal by the management with effect from 21st December, 1961 for gross neglect of work with amounted to misconduct punishable under Clause 19(6) of the Standing Orders of the company.

2. The management also earlier on 19th December 1961 made an application under the Proviso to Section 33(2)(b) of the Act for approval of the dismissal of the workman.

3. The application for approval filed by the management as well as the present complaint made by the workman were heard together, but the management on 25th October 1962 filled an application for withdrawal of its application on the ground that it was misconceived because the workman was not a workman concerned in the dispute pending in Reference Nos. 45, 56, 63, 65 and 75 of 1961, referred to by both parties. On hearing the parties I allowed the said application of withdrawal made by the management and permitted its application under Section 33(2)(b) to be withdrawn on 26th October 1962, I, therefore, now proceed to pass order on the complaint of the workman.

4. The workman, Gokul Singh, is a watchman in Watch and Ward Department in 3 and 4 Pits of Jamadoba colliery. The only dispute which has been raised by the workman on the present complaint is whether his dismissal was justified and legal.

5. A preliminary objection to the maintainability of the complaint was taken by Shri G. Prasad, Chief Personal Officer, on behalf of the management, on the ground that the provisions of Section 33 of the Act are not attracted, *first*, because no reference or proceeding in respect of any industrial dispute was pending between the employers of 3 and 4 Pits of Jamadoba colliery and the present workman or his class or category of workmen, and, *secondly*, that Gokul Singh, the workman, was not concerned in the dispute, which was pending in the aforesaid five references, within the meaning of Section 33 of the Act, and, therefore, it was urged that on either ground the complaint of the workman was not maintainable, and, as such it should be dismissed.

6. In support of this contention, Shri Prasad appearing for the company opposite party, placed reliance on a Bench Decision of the Patna High Court in Khagesh Sirkar *Vs.* Tatanagar Foundry Company A.I.R. 1961, 420; on an unreported

decision of the Supreme Court in Civil Appeal No. 393 of 1961—Management of Digwadih colliery *Vs.* Ramjee Singh decided on 18th July 1962 on appeal against an award dated 25th August 1960 made by my predecessor, late Shri G. Palit, in Application No. 4 of 1960 in Reference No. 60 of 1959, and, also on a decision of mine in Complaint No. 5 of 1961 in Reference No. 56 of 1960, Abid Khan *Vs.* Manager, Loyabad Colliery Workshop, in which award was given by me on 29th August 1962.

7. Shri Chanda, President of the Tata Collieries Workers' Union, representing the complainant, Gokul Singh, while countering the above contentions on behalf of the management, submitted that Gokul Singh, being a member of the Watch and Ward Department, must be deemed to be a workman concerned in the dispute pending in the above References, in that, the Watch and Ward Department is a Central Department under the Chief Mining Engineer and it is not attached to any particular colliery, and, therefore, any watchman belonging to the Watch and Ward Department must be deemed to be a workman of all the collieries under the Chief Mining Engineer who is the head of the Central Department. He also contended that as no such specific objection has been taken by the management in its rejoinder filed on 19th July 1962, this preliminary objection should not be allowed to be taken at this late stage at the hearing of the complaint. In support of his contention, he relied on the decision of the Supreme Court in New India Motors Limited *Vs.* K. T. Morris, 1960—I—L.L.J. 551 1960—3 S.C.R. 350:

8. I may mention that both the parties argued on the merits of the complaint also, but I propose to deal with the preliminary objection first, because if the preliminary objection succeeds then it will not be necessary to go into the merits of the complaint at all, and, therefore, I will refer to the merits only if I find that the preliminary objection raised by the management is devoid of any merit.

9. It was not disputed by Shri Chanda, on behalf of the workman, that except the five References mentioned before, no other Reference in respect of any dispute between the parties was pending. The first ground of Shri Prasad, therefore, that, except these five References, no other reference or proceeding in respect of any industrial dispute between the parties was pending, must be accepted as correct.

10. The crux of the matter, therefore, is, what was the nature of the dispute pending in the aforesaid five references, and, what is the nature of the dispute pending adjudication in the present case. Let us, therefore, first ascertain the nature of the dispute in the present case, as also in the aforesaid five references, which were alleged to be proceedings pending, giving right to the workman to make the complaint in question.

11. As far as the present dispute is concerned, it is in respect of the dismissal of one workman, Gokul Singh, who was watchman in the Watch and Ward Department in 3 and 4 Pits of Jamadoba colliery. It was admitted by both parties that 3 and 4 Pits of Jamadoba colliery are different from 6 and 7 Pits of Jamadoba colliery and that both have a separate Manager and are under separate management, althought both belong to the same company, namely, The Tata Iron and Steel Co. Limited. The only dispute, therefore, for adjudication, on the present complaint is whether the dismissal of the workman was justified and was in accordance with the Standing Orders of the management and if the workman had been dismissed in violation of the provisions of the Proviso to Section 33(2)(b), if Sec. 33 applied.

12. Having thus known the nature of the dispute pending in the present case, let us now ascertain the nature of the dispute in the aforesaid five References, which I will take up below *seriatim*. I may, however, at the outset, mention that in these five references the employers were the same, namely, the opposite party,—Tata Iron and Steel Co. Ltd. which owns several collieries at several places.

(a) *Reference No. 45 of 1961.*—In this reference, the dispute was between the employers of Digwadih colliery and their workmen and the item of dispute referred to for adjudication was in respect of the dismissal of Jagdish Singh, an underground munshi of Digwadih colliery, and the question was whether his dismissal was justified and legal. The award in this case was made by me on 29th September 1962.

(b) *Reference No. 56 of 1961.*—In this Reference also, the dispute was between the employers in relation to the Digwadih Colliery and their workmen and the item of dispute referred to was in respect of termination of service of Jaladhar Singh, a stone cutter, of the said colliery. The question for adjudication was

whether the termination of service of Jaladhar Singh was justified or legal. An award in this case was made on 3rd August 1962 by my predecessor, Shri Salim M. Merchant.

(c) *Reference No. 63 of 1961.*—In this reference, the dispute was between the employers in relation to Choitodih colliery and their workmen with particular reference to P. Dubey, who was underground munshi, of that colliery and the question there was whether his dismissal by the management was justified or legal. This reference was transferred to Shri L. P. Dave, where on transfer it was numbered as Ref. 18 of 1962 and an award was given therein on 28th February 1962 by Shri Dave.

(d) *Reference No. 65 of 1961.*—In this reference, the dispute was between the employers of Digwadih Colliery and their workmen with particular reference to the dismissal of Ganesh Mahato, a minor, in that colliery and the question for adjudication was whether the dismissal of Ganesh Mahato was justified or legal. This reference is still pending.

(e) *Reference No. 75 of 1961.*—In this case, the dispute was between the employers of 6 and 7 Pits of Jamadoba colliery and their workmen with particular reference to the termination of service of Ranjit Singh, a substitute workman, of that colliery and the question was whether the termination of service of Ranjit Singh was justified or legal. In this case, the award was given on 23rd June 1962 by Shri H. K. Choudhury, Presiding Officer of the Bihar State Tribunal, Patna.

13. From the above analysis of the 5 references, relied upon on behalf of the workmen, it will appear that 3 of them, namely, References Nos. 45, 56 and 65 of 1961 related to Digwadih colliery, Reference No. 63 of 1961 related to Choitodih colliery and Reference No. 75 of 1961 related to 6 and 7 Pits of Jamadoba Colliery. It is conceded that Gokul Singh, the workman, has no concern either with Digwadih colliery or Choitodih colliery or with 6 and 7 Pits of Jamadoba colliery. *Prima facie*, therefore, it is plain that Gokul Singh, the complainant, was not concerned in any of the disputes pending in the aforesaid five references.

14. It is true that in *New India Motors (P) Ltd.*, Vs. *K. T. Morris*, 1961—*I.L.L.J.* 551, His Lordship Gajendragadkar, J. who pronounced the unanimous decision of the Supreme Court, at page 554, rejected the limited construction, which was sought to be placed on the expression 'workmen concerned in such dispute,' as being limited only to those workmen directly or actually concerned in such dispute, and, held that, "that expression includes all workmen on whose behalf the dispute has been raised as well as those who would be bound by the award which was made in the said dispute." But, in my opinion, that case has no application to the facts of the present case. In that case, the employee K. T. Morris, who was respondent before the Supreme Court, as well as the seven employees, whose case was referred and was pending before the Tribunal, were all working as apprentices in the service of the same company, and, therefore, obviously all the eight persons, namely, Morris and the seven employees, belonged to the same class and category of workmen and the seven employees of the company were acting collectively and the dispute was raised on behalf of all workmen working as apprentices, and, as such, there was a dispute between the employer, on the one hand, and, his said employees acting collectively, on the other. The award made in that reference bound larger circle of persons than the actual parties to the industrial dispute.

15. Here, however, on the admitted facts, the complainant is a watchman in 3 and 4 Pits of Jamadoba colliery and has had nothing to do with any of the 3 collieries which were the subject matter of the aforesaid five references. The fact that in Reference No. 45 of 1961, 63 of 1961 and 65 of 1961 the question was of dismissal of the particular workman concerned in those three references, and, here also such a question of dismissal of the workman, Gokul Singh, is involved, in my opinion, is no ground for holding that Gokul Singh was concerned in the dispute in respect of the dismissals of the workmen concerned in those three references at all. The argument, therefore, based on this ground, in my opinion, has no force and must be rejected

16. The further argument, on behalf of the workmen that because Gokul Singh was a Watchman in the Watch and Ward Department which was under the Central Department under the Chief Mining Engineer which controlled all the collieries and as such he should be considered to be a workman of every colliery under the C.M.E., in my opinion, has also no substance. When it is admitted that Gokul Singh was a Watchman in 3 and 4 Pits of Jamadoba colliery and not in any of the three collieries concerned in the five references, I am unable to accept

the contention, on behalf of the workman, that Gokul Singh, the workman, should be considered to be a workman of the other three collieries which were concerned in the five references also simply because he belonged to the Watch and Ward Department under the Central Department under the C.M.E.

17. In this connection, I may refer to a recent un-reported decision of the Supreme Court dated 18th July 1962 in the *Management of Digwadih Colliery* Vs. *Ramjee Singh, Civil Appeal No.* 393 *of* 1961 against the award dated 25th August 1960 made by my predecessor, late Shri G. Palit, relying on the just mentioned Supreme Court Decision in New India Motors (P) Ltd., in application No. 4 of 1960, arising out of Reference No. 60 of 1959. The judgment in this case also was delivered by His Lordship Gajendragadkar J. In that appeal, the dispute in Reference No. 60 of 1959 was on behalf of the Chaprasis and Watchmen of Jamadoba and Digwadih collieries for withdrawal of their overtime wages, and, the complainant in Application No. 4 of 1960 arising out of the said Reference No. 60 of 1959, was a clerk, Grade II, and, as this Tribunal, presided over by the late Shri G. Palit, had not mentioned about the nature of the dispute pending in Reference No. 60 of 1959, nor, the complainant in that case had made any averment about the nature of this dispute, the order of this Tribunal allowing the application of the complainant under Sec. 33A of the Act was set aside, and the application under Sec. 33A of the Act made by the complainant was dismissed.

18. In the *Patna case,* it was laid down that the principles to be borne in mind for deciding the question, whether a workman is concerned in the dispute under adjudication, which is a mixed question of fact and law, are to find out (i) the nature of the dispute under adjudication, (ii) the effect of its decision on the rest of the workmen, and (iii) the nature of the representation of the workman in the dispute.

19. Applying these principles, here, we find that the dispute which was pending in aforesaid five references was entirely different from the present dispute and those disputes which were pending in those references were in respect of different collieries and in respect of different workmen representing different categories and classes and not a single one of them was in respect of any watchman of the Watch and Ward Department, and, therefore the award in any of these five references could not possibly bind any watchman of the Watch and Ward Department at all.

20. It is also true that the disputes which were referred for adjudication in the aforesaid five references were made with regard to disputes between the employers of the colliery on the one hand and their workmen on the other so as to give them the characteristic of a collective dispute, on behalf of the workman, but the fact remains that none of the five disputes in the above-mentioned five references was such a dispute in which any principle, which might be applicable to all workmen in general including the complainant here, irrespective of the category or class to which they belonged or the duties which they performed was involved. The aforesaid five references, therefore, cannot be considered to be industrial dispute not only between the employers in relation to those three particular collieries and the particular workmen who were parties to it, but also between the company and the present complainant, a watchman, who was neither expressly nor impliedly nor admittedly a party to any of them.

21. For the reasons given above, I hold that the present complainant, Gokul Singh, was not a workman concerned in the dispute, which was pending in References Nos. 45, 56, 63, 65 and 75 of 1961, within the meaning of sub-section (2) of Section 33 of the Act, and, therefore, Section 33 does not apply, and, as such, there can be no contravention of it and no complaint under Sec. 33A can be made by such a workman. The present complaint under Sec. 33A of the Act made by the Complainant is, therefore, not maintainable, and, accordingly, it is dismissed. Under the circumstances of the case there will be no order as to costs.

22. The fact that this preliminary objection was not taken by the company in its written statement is, in my opinion, no ground for rejecting it *in limine,* when it goes to the root of the case and, therefore, I overruled it.

23. As I have upheld the preliminary objection raised by the management and held that the complaint is not maintainable, it is no longer necessary to refer to or to deal with the merits of the Complaint, and, therefore, I do not do so.

24. I, accordingly, make the award and submit it under Section 15 of the Act to the Ministry.

Sd/- RAJ KISHORE PRASAD,
Presiding Officer,
Central Govt. Industrial Tribunal, Dhanbad.

Dhanbad, 27th October 1962.

[No. 2/158/61-LRII.]

New Delhi, the 27th November 1962

S.O. 3627.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under Section 33A of the said Act from Shri Biram Rai and 24 others, workmen of 6 and 7 Pits of Jamadoba Colliery C/o Tata Collieries Workers' Union, Digwadih, Post Office Jealgora, Dhanbad.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

In the matter of a Complaint under Section 33A of Industrial Dispute Act, 1947, (XIV of 1947), in Reference Nos. 40 and 49 of 1960.

COMPLAINT NO. 4 OF 1961

PARTIES:

Shri Biram Rai and 24 others, Workmen of 6 & 7 Pits of Jamadoba Colliery, C/o. Tata Collieries Workers' Union Digwadih, P.O. Jealgora, Dhanbad—*Complainants.*

Vs.

Chief Mining Engineer, The Tata Iron & Steel Co. Ltd., P.O. Jealgora, Dist. Dhanbad—*Opposite Party.*

PRESENT:

Shri Raj Kishore Prasad, M.A., B.L.—*Presiding Officer.*

APPEARANCES:

For the Complainants—Shri Pritish Chanda, President, Tata Collieries Workers' Union.

For the Opposite Party—Shri G. Prasad, Chief Personnel Officer with Shri S. N. Singh, Welfare Officer.

STATE: Bihar. INDUSTRY: Coal.

Dhanbad, Dated the 27th Oct. 62

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act, 1947 (XIV of 47),—hereinafter referred to as the Act—made by 25 workmen of 6 and 7 Pits of Jamadoba Colliery belonging to the opposite party against their discharge by the company from its service with effect from 13th March, 1961.

2. Out of these 25 workers, 12 have been employed and given jobs by the management. These 12 are complainants Nos. 2, 5, 8, 9, 12; 13; 19; 20 21; 23; 24 and 25. We are, therefore, concerned now only with the remaining 13 complainants, namely, Nos. 1, 3, 4, 6, 7, 10, 11, 14, 15, 16, 17, 18 and 22.

3. The case of the complainants was that they were working in Nos. 6 and 7 Pits of Jamadoba colliery as trammers and *mazdoors* for more than 3 years and they have been working continuously in the aforesaid collieries since their appointment, but the management in contravention of the provisions of Proviso to Section 33(2)(b) of the Act had discharged them from its service with effect from 13th March, 1961, without taking approval of the Tribunal as at that time proceedings in Reference Nos. 40 and 49 of 1960, in which the management and all their workmen including the complainants were parties, were pending.

4. Shri G. Prasad, Chief Personnel Officer, on behalf of the management, raised a preliminary objection to the maintainability of the complaint on the ground that these remaining 13 workmen were not concerned in the disputes pending in Reference Nos. 40 and 49 of 1960 within the meaning of Section 33(2) of the Act and as such their complaint was not maintainable.

5. Shri P. Chanda, President, Tata Collieries Workers' Union, representing these 13 workmen, combated the above contentions on behalf of the management and submitted that the present complaint was maintainable in as much as the

workmen were concerned in the dispute pending in those two references within the meaning of Section 33(2) of the Act.

6. I am not referring to the merits of the complaint on which also argument was advanced, because, in my opinion, the preliminary objection is well-founded and it must be given effect to, and, therefore, it is not necessary to go into the merits at all.

7. Let us now ascertain the nature of the dispute on the present complaint and the nature of the dispute pending in the aforesaid two references.

8. In the present case, the question is whether these 13 workmen, who were trammers and mazdoors, working in 6 and 7 Pits of Jamadoba colliery were justifiably and legally discharged from service by the management. On behalf of the management it was alleged that all these 13 workers, with whom we are concerned, were *Badli* workers and not permanent workers and that they were not discharged or punished for any misconduct, but as they were badli workers and no job was available they were not employed. On behalf of the workman, it was, however, contended that these workers having worked continuously in the said colliery for more than 3 years must be deemed to be permanent workmen, and, as such, they could not be discharged at all. The question for adjudication, therefore, is, (1) whether these workmen are *badli* workers and whether they have now become permanent workmen, and, (2) whether they had been unjustifiably and illegally discharged.

9. Having known the nature of the dispute in the present case, let us now see the nature of the dispute in the two references above mentioned, namely, Reference Nos. 40 and 49 of 1960.

(a) Reference No. 40 of 1960.—In this reference, the dispute was between the employers in relation to the Jamadoba Colliery of the opposite party and their workmen in respect of the matters specified in the schedule attached to the order of reference, which is to the following effect:

> "Keeping in view the nature of duties performed by the following 20 Line Mistries of Jamadoba Colliery what in terms of the Coal Award should be the category in which these workmen should be placed and with effect from with date after the 25th July, 1958?"

The names of the twenty Mistries are not important and therefore they are not mentioned.

From the above item of dispute, referred to in the said reference, it is plain that the persons concerned in the said reference were 20 Line Mistries and the question was as to in which category these workmen should be placed in terms of the Coal Award in view of the nature of the duties performed by these Line Mistries, and, with effect from which date after 25th July, 1958.

Here, we are not at all concerned with any Line Mistries and with the category in which they should be placed. We are here concerned with trammers and mistries of 6 and 7 Pits of Jamadoba Colliery and the question is whether they are *badli* workers or not and whether their discharge was justified.

(b) Reference No. 49 of 1960.—In this reference, the dispute was between the opposite party and their workmen employed in 4 coal mines, namely, (1) Jamadoba 6 and 7 Pits of Jamadoba colliery, (2) Digwadih, (3) Sijua, and (4) Malkera, in respect of following item of dispute:

> "Whether the management of Jamadoba 6 and 7 Pits, Jamadoba, Digwadih, Sijua and Malkera Coal Mines had prescribed any incremental scale of wages for the machine drivers prior to coming into operation of the Award of the All India Industrial Tribunal (Colliery Disputes) in May, 1956?
>
> If so, whether the management is justified in not paying increments to these machine drivers after coming into operation of the said Award?
>
> If not, to what relief are these machine drivers entitled."

From the above, therefore, it is clear that in the above reference the question was whether the management of 6 and 7 Pits of Jamadoba colliery, Digwadih Colliery, Sijua Colliery, and Malkera Colliery had prescribed any incremental scales of wages of the machine drivers prior to the coal award and if so whether

the management was justified in not paying such increments to these machine drivers after coming to operation of the said award.

In the instant case, we are not at all concerned with any machine drivers or with their incremental scales of wages. We are concerned, here, with these 13 workmen, who as stated earlier, are trammers and mazdoors, and although they are working in 6 and 7 Pits of the Jamadoba Colliery, which was the subject matter of the dispute in the aforesaid reference, but there is no question of any incremental scale of wages of these persons. The simple fact that these 13 workmen also belonged to the 6 and 7 Pits of Jamadoba Colliery but their nature of work was entirely different and their class and category were entirely different cannot, in my opinion, be a ground to hold that these workmen were also concerned in the dispute pending in the aforesaid reference.

10. On an analysis of the above two references, therefore, in my opinion, it is absolutely clear that the workmen concerned in the present dispute cannot be considered to be workmen concerned in any of the two disputes pending in Reference Nos. 40 and 49 of 1960.

11. I, therefore, hold that these workmen were not workmen concerned in the dispute pending in Reference Nos. 40 and 49 of 1960 within the meaning of Section 33(2) of the Act, and, accordingly, Section 33 did not apply, and, as such, the complainants had no right to made a complaint under Section 33A, and, therefore, it is not maintainable, and, accordingly it is dismissed.

In the circumstances of the case, however, there will be no order for costs. I, accordingly, make the award.

RAJ KISHORE PRASAD,
Presiding Officer,
Central Government Industrial Tribunal, Dhanbad.

Dhanbad.
27-10-62.

[No. 1/40/60-LRII.]

ORDERS

New Delhi, the 21st November 1962

S.O. 3628.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Parbelia Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication under section 7A of the said Act.

SCHEDULE

(1) Whether the termination of services of Shri Bhaiya Ram, Trammer by the management of Parbelia Colliery with retrospective effect was justified? If not, to what relief he is entitled?

(2) Whether the termination of services of Shri Kuldip Mahato, Underground mining mazdoor by the management of Parbelia Colliery with effect from 13th September, 1962 was justified? If not, to what relief the worker is entitled?

[No. 6/12/62-LRII.]

S.O. 3629.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Topsi Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the order dated the 8th September, 1962 issued by the Manager of the Topsi Colliery dismissing Shri Bikas Dass, Pump Khalasi, with retrospective effect, *viz.*, from 2nd September, 1962 is lawful? If not, to what relief the workman is entitled?

[No. 6/5/62-LRII.]

S.O. 3630.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs Hind Strip Mining Corporation (P) Limited, Post Office Bermo, District Hazaribagh, Bihar and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the retrenchment of 200 workmen (including 158 Ex—D.V.C. employees) with effect from the 15th September 1962, as notified by the management of Messrs. Hind Strip Mining Corporation (Private) Limited, Post Office Bermo, District Hazaribagh (Bihar) on the 14th September 1962 is justified? If not, to what relief are the workmen entitled?

[No. 1/27/62-LRII.]

New Delhi, the 22nd November 1962

S.O. 3631.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Rana Colliery of Lodna Colliery Co. (1920) Limited, Sripur Colliery, Post Office Kalipahari, Burdwan, West Bengal and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the Order dated 24th May, 1962 dismissing from service Shri Dipankar Chatterjee Welder Helper, of Rana Colliery with retrospective effect, *viz.*, from 12th April, 1962, was lawful? If not, to what relief is the workman entitled?

[No. 6/11/62-LRII.]

S.O. 3632.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Parbelia Colliery of Messrs Bengal Coal Company Limited, Post Office Dishergarh and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal with retrospective effect of Sarvashri Nimchand Keot, Kedar Gope and Marachu Das, ordered by the management of the Parbelia colliery is lawful? If not, to what relief are the workmen entitled.

[No. 6/9/62-LRII.]

S.O. 3633.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Ramnagar Colliery, Post Office Kulti, District Burdwan, West Bengal and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Ramnagar Colliery was justified in dismissing Shri Raju Singh, Trammer from service with effect from the 24th May 1962? If not, to what relief is he entitled?

[No. 2/75/62-LRII.]

New Delhi, the 23rd November 1962

S.O. 3634.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Victoria West Colliery of Messrs. New Beerbhum Coal Company Limited, Post Office Barakar, Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the Order dated 14th June 1962 of the Victoria West Colliery dismissing Shri Umanath Shaw, haulage khalasi, from service with retrospective effect, *viz.*, from the 8th May, 1962, was lawful? If not, to what relief is the said workman entitled?

[No. 6/10/62-LRII.]

S.O. 3635.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Madanpur Colliery, Post office Andal, District Burdwan, West Bengal and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the management was justified in stopping from work Sri Aswiny Ankuria, Pump Khalasi, from 2nd September, 1962; if not, to what relief is the workman entitled?

[No. 6/7/62-LRII.]

New Delhi, the 27th November 1962

S.O. 3636.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the 6 and 7 Pits Colliery, owned by M/s. Tata Iron and Steel Co. Ltd., P.O. Jealgora, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal of Sarvashri Basdev Pasman, Bhairo Mondal and Upendra Mondal, Miners, by the management of Jamadoba 6 & 7 Pits Colliery owned by M/s. Tata Iron & Steel Co. Ltd., P.O. Jealgora, (District Dhanbad) was justified? If not, to what relief are they entitled?

[No. 2/112/62-LRII.]

S.O. 3637.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Dhori Colliery P.O. Bermo, District Hazaribagh, Bihar and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal of Shri Ram Shakal Pandey, Munshi, by the management of Dhori Colliery is commensurate with the nature and extent of the acts or omissions committed by Shri Pandey in over-reporting tubs on 29th April 1962? If not, to what relief is the workman entitled?

[No. 2/103/62-LRII.]

S.O. 3638.—Whereas, the Central Government is of opinion that an industrial pute exists between the employers in relation to the Chapui Khas Colliery, P.O. Kalipahari, District Burdwan, West Bengal and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management in reverting Shri Sudhir Kumar Khan from the post of lamp room-in-charge to the post of switch board attendant was justified? If not, to what relief is he entitled?

[No. 6/13/62-LRII.]

S.O. 3639.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Religara Colliery of the East Religara Coal Company (Private) Limited, Post Office Argada, District Hazaribagh, Bihar and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the retrenchment of Shri Siddique Mia, a Fitter of Religara Colliery on and from 1st May 1962 is justified? If not, to what relief is the workman entitled?

[No. 2/113/62-LRII.]

S.O. 3640.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the New Marine Colliery, Post Office Kusunda, Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

1. Whether Shri Bishu Bhuiya, Trammer of the New Marine Colliery, had any reasonable explanation for his absence from duty from 17th August 1962 to 7th September 1962.

2. Was the management of the New Marine Colliery justified in dismissing Shri Bishu Bhuiya from service for his involuntary absence without permission?

3. What relief, if any, is Shri Bishu Bhuiya entitled to.

[No. 2/110/62-LRII.]

A. L. HANDA, Under Secy.

New Delhi-2, the 26th November, 1962

S.O. 3641.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following further amendment in the Calcutta Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, the same having been previously published as required by the said sub-section, namely:—

Amendment

1. This Scheme may be called the Calcutta Unregistered Dock Workers (Regulation of Employment) Amendment Scheme, 1962.

2. In the Calcutta Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, hereinafter referred to as the said Scheme, after sub-clause (5) of clause 8, the following sub-clause shall be inserted; namely:—

"(6) The Board may, subject to such conditions as it may prescribe in this behalf, permit persons listed under sub-clause (2) or sub-clause (3) to form one or more groups and each group so formed shall be treated as one employer only for employment of monthly workers:

Provided that the Board shall have power to make such alterations or modifications in the conditions prescribed, as it may deem necessary from time to time."

3. In the said Scheme, after clause 9-B, the following clause shall be inserted, namely:—

"9-C. *Transfer of workers*: (1) The Chairman or the Deputy Chairman may, for sufficient and valid reasons, allow—

(i) the transfer of a listed worker in a pool as a monthly worker on a request in writing of the employer or the worker, explaining, fully the reasons for the transfer provided that such transfer shall be subject to the fulfilment of any contract sub-sisting between the listed worker in the pool and his employer regarding termination of employment. No transfer shall take place without the approval of the Chairman or the Deputy Chairman. The name of the workers so transferred shall be omitted from the list of listed workers;

(ii) the transfer of a monthly worker to the pool of listed worker on a request in writing of the employer or the worker explaining fully the reasons for the transfer provided that such transfer shall be subject to the fulfilment of any contract subsisting between the

monthly worker and his employer regarding termination of employment. No transfer shall take place without prior approval of the Chairman or the Deputy Chairman. The name of the worker so tansferred shall be included in the list of listed workers.

(2) If the services of a monthly worker are terminated by an employer for any act of indiscipline or misconduct, he may apply to the Board for listing him in the pool of workers. The Deputy Chairman shall then decide, on behalf of the Board, on the merits of the case whether or not the worker should be listed in a pool, and if so whether in the same category in which he was classified before the termination of his employment or in a different category or sub-category as the case may be."

[No. 529/21/62-Fac.]

BALWANT SINGH, Under Secy.

ORDER

New Delhi, the 26th November 1962

S.O. 3642.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Central Bank of India Limited, and their workmen in respect of the mattter specified in the schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay, constituted under section 7A of the said Act.

SCHEDULE

Whether the appointment of Shri M. C. Bhandari as Chief Cashier by the Central Bank of India, Jodhpur amounted to a supersession of the claims of Shri A. K. Vyas, Cashier, for appointment to the said post and, if so, to what relief, if any, is Shri Vyas entitled?

[No. 51(51)/62-LRIV.]

G. JAGANNATHAN, Under Secy.

MINISTRY OF SCIENTIFIC RESEARCH AND CULTURAL AFFAIRS

ERRATUM

In Ministry of Scientific Research and Cultural Affairs Notification No. F. 24-9/62-T.6(iii), dated 15th November, 1962, published in the Gazette of India, Part II—Section 3(ii), dated 24th November, 1962 as S.O. 3536, the following correction is to be made:—

Page 3852, last line of the notification—

for "Dr, D. S. Muthana",

read "Dr. M. S. Muthana".

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